

1 UNITED STATES DISTRICT COURT
 2 EASTERN DISTRICT OF VIRGINIA
 ALEXANDRIA DIVISION

3 UNITED STATES OF AMERICA,) Case 1:20-cr-18
)
 4 Plaintiff,)
)
 5 v.) Alexandria, Virginia
) February 23, 2022
 6 ROBERTO CARLOS CRUZ MORENO,) 9:14 a.m.
 et al.,)
 7)
 Defendants.) Volume 2
 8) Pages 178 - 348

9
 10 TRANSCRIPT OF TRIAL
 11 BEFORE THE HONORABLE ANTHONY J. TRENGA
 12 UNITED STATES DISTRICT COURT JUDGE
 13 AND A JURY

14 APPEARANCES:

15 FOR THE PLAINTIFF:

16 NICHOLAS U. MURPHY, II, ESQUIRE
 NICHOLAS J. PATTERSON, ESQUIRE
 17 AMANDA LOWE, ESQUIRE
 OFFICE OF THE UNITED STATES ATTORNEY
 18 2100 Jamieson Avenue
 Alexandria, Virginia 22314
 19 (703) 299-3700

20 FOR DEFENDANT ROBERTO CARLOS CRUZ MORENO:

21 THOMAS B. WALSH, ESQUIRE
 PETROVICH & WALSH, PLC
 22 10605 Judicial Drive, Suite A-5
 Fairfax, Virginia 22030
 23 (703) 934-9191

24

25 COMPUTERIZED TRANSCRIPTION OF STENOGRAPHIC NOTES

1 APPEARANCES CONTINUED:

2 FOR DEFENDANT KEVIN PEREZ SANDOVAL:

3 JOSEPH R. CONTE, ESQUIRE
4 LAW OFFICE OF J.R. CONTE PLLC
5 400 7th Street, N.W., Suite 206
Washington, D.C. 20004
(202) 638-4100

6 FOR DEFENDANT MARVIN TORRES:

7 JONATHAN R. OATES, ESQUIRE
8 KRUM, GERGELY & OATES, LLC
9 4103 Chain Bridge Road, Suite 401
Fairfax, Virginia 22030
(703) 988-3711

10 FOR DEFENDANT JOSE ROSALES JUAREZ:

11 ADAM M. KRISCHER, ESQUIRE
12 DENNIS, STEWART & KRISCHER, PLLC
13 2007 15th Street N, Suite 201
Arlington, Virginia 22201
(703) 248-0626

14 DEFENDANTS ROBERTO CARLOS CRUZ MORENO, KEVIN PEREZ
15 SANDOVAL, MARVIN TORRES, AND JOSE ROSALES JUAREZ IN
PERSON

16 TERESA ROMAN, MIRIAM DEUTSCH, AND MARIA HORVATH,
17 SPANISH INTERPRETERS

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I N D E X

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1 (The jury is not present.)

2 THE CLERK: Criminal Case 1:20-cr-18, *United*
3 *States v. Roberto Carlos Cruz Moreno, Kevin Perez*
4 *Sandoval, Marvin Torres, and Jose Rosales Juarez.*

5 Counsel, will you please note your
6 appearances for the record.

7 MR. MURPHY: Good morning, Your Honor.
8 Nicholas Murphy, Nicholas Patterson, and Amanda Lowe on
9 behalf of the United States.

10 THE COURT: Good morning.

11 MR. WALSH: Good morning, Your Honor. Thomas
12 Walsh on behalf of Roberto Cruz Moreno, who is present.

13 THE COURT: All right. Any issues?

14 Yes, Mr. Conte. I'm sorry.

15 MR. CONTE: May it please the Court. Joseph
16 Conte for Kevin Perez Sandoval. Good morning, Your
17 Honor.

18 THE COURT: Good morning.

19 MR. KRISCHER: Good morning, Judge. Adam
20 Krischer on behalf of Jose Rosales Juarez, who is
21 present.

22 THE COURT: All right.

23 MR. OATES: And good morning, Your Honor.
24 Jon Oates on behalf of Marvin Torres, who is present.

25 THE COURT: All right. Any issues that we

1 need to take up?

2 MR. MURPHY: The government has a few things
3 it would like to address, Your Honor, before we get
4 started.

5 THE COURT: All right.

6 MR. MURPHY: The first is that Special Agent
7 Justin Schmitt, who is the lead case agent in the case,
8 will not be present in court on Friday due to a
9 personal family matter. So I wanted to make the Court
10 and counsel aware that he would not be here on Friday.

11 THE COURT: All right. That's fine.

12 MR. MURPHY: The second is with respect to at
13 least one of the opening statements yesterday, as the
14 Court is aware, the Court precluded the government
15 specifically from entering evidence pertaining to the
16 immigration status of anyone, including Defendant
17 Roberto Cruz Moreno.

18 During the opening statement by Mr. Walsh, he
19 specifically argued to the jury that Defendant Roberto
20 Cruz Moreno was not even present in the United States
21 during 2017, thereby opening the door -- I mean, the
22 government assumes he's talked with his client about
23 when he came to the United States and where he lived,
24 and the government assumes that he has reviewed
25 discovery and the trial exhibits, which very

1 specifically demonstrate that Roberto Cruz Moreno was
2 present in the United States starting in November of
3 2015.

4 Specifically, Government's Exhibits 34-40,
5 34-4P, 34-4Q, and 34-4R are documents seized from
6 Roberto Cruz Moreno's car during the traffic stop on
7 April 20, 2019, are immigration documents which
8 documented the date that he entered the United States
9 via Texas, November 27, 2015, and a notice to appear
10 because he had appeared into the United States
11 illegally at that time, Your Honor.

12 THE COURT: All right.

13 MR. MURPHY: Moreover, Documents 34-4S and
14 34-4T explicitly identify that Roberto Cruz Moreno had
15 enrolled in the Central Islip Union School District for
16 the school year 2016-2017. Thus, there is no basis for
17 any argument that Roberto Cruz Moreno was not present
18 in the United States in 2017.

19 And from the government's perspective, there
20 are two ways to address that erroneous argument by
21 counsel. Either the government can be permitted to
22 introduce evidence demonstrating to the jury that
23 Roberto Cruz Moreno was, in fact, present in the United
24 States as of November 2015 or the Court can simply
25 provide judicial notice to the jury that Roberto Cruz

1 Moreno has been present in the United States since
2 November 2015.

3 THE COURT: All right.

4 MR. MURPHY: So that's the first matter the
5 government wanted to address.

6 Secondly, again, out of respect for allowing
7 counsel to make their arguments without the government
8 interjecting to disrupt those arguments, I think all
9 counsel for the defendants argued that the government's
10 cooperating witnesses had received immunity in their
11 cases such that if they testified, they would walk out
12 the door.

13 Your Honor, as the Court is probably aware,
14 first of all, all of those cooperating witnesses have
15 been charged criminally either in the Eastern District
16 of Virginia or in a commonwealth state court for the
17 crimes with which they are testifying about in this
18 case. That's the first matter.

19 Second of all, as counsel was made aware via
20 *Giglio* disclosures to counsel, I believe all of those
21 individuals provided information after they were
22 charged, either federally or in the state, to the
23 government under a proffer use immunity letter with the
24 government.

25 There is no blanket immunity from prosecution

1 that any cooperating witness has been provided in this
2 case. And to the extent that counsel has now argued
3 and intends to ask questions or further continue to
4 make arguments suggesting that any witness has received
5 blanket immunity from prosecution from the government,
6 the government would request that they be precluded
7 from doing so because that's not in line with the facts
8 or evidence in this case, which demonstrates that they
9 have received limited use immunity, which means the
10 government cannot use statements they provide during a
11 proffer to the government to prosecute them. That does
12 not mean that the government cannot otherwise prosecute
13 them based on any other evidence the government has,
14 Your Honor.

15 THE COURT: Right.

16 MR. MURPHY: So the government wants to be
17 very clear about that issue, and, frankly, given the
18 nature of that issue, the government doesn't believe
19 there's any basis to be discussing immunity with these
20 witnesses because they have no such immunity. What
21 they have is immunity from having their own statements
22 turned against them, by the government, that they
23 provided during a proffer, Your Honor.

24 THE COURT: All right.

25 MR. MURPHY: The third issue I want to

1 address is with respect to the redacted plea we had the
2 sidebar about. I just want to correct the record. As
3 the Court may be aware or is likely aware, polygraphs
4 are not admissible evidence at trial. For that reason,
5 the Eastern District of Virginia always redacts the
6 polygraph paragraph in a Plea Agreement before entering
7 it into evidence at trial because it's not admissible
8 evidence at a trial as established by the Supreme
9 Court.

10 So for that reason, the polygraph paragraph
11 has been redacted by the government. And because it's
12 not admissible evidence at trial, the government cannot
13 ask its witnesses, "Did you take a polygraph?" and "Did
14 you pass that polygraph?" and, therefore, bolster their
15 testimony. There should be no reason why defense
16 counsel would be permitted to ask them questions about
17 the redacted polygraph paragraph, Your Honor.

18 THE COURT: All right. Mr. Conte, come
19 forward.

20 Let me just make a couple of comments based
21 on what you've said, Mr. Murphy.

22 MR. MURPHY: Sure.

23 THE COURT: With respect to Mr. Moreno's
24 presence or nonpresence in the United States, counsel
25 made statements in opening statement that he may not be

1 able to follow through on and would be haunted in
2 closing. He'll be limited by the evidence.

3 I think you perfectly are free to put on
4 evidence establishing his presence in the United
5 States. That doesn't necessarily require you to get
6 into his immigration status.

7 MR. MURPHY: Certainly. But the evidence
8 that the government has related to when he entered the
9 United States directly relates to the immigration
10 documents, Your Honor. So, certainly, the government
11 can redact those documents.

12 THE COURT: Right. It seems to me you can
13 get into the fact without getting into whether he was
14 here legally or illegally.

15 MR. MURPHY: I would agree. I also am not
16 sure that we won't draw an objection for foundation.

17 THE COURT: Well, I would suggest you talk
18 with Mr. Walsh and see if you can't agree on either a
19 stipulation or something that would avoid the need to
20 get into this evidence further.

21 Anyway, that's just a matter of proof at
22 trial, and counsel is going to be restricted in their
23 closing arguments by what the evidence is.

24 And with respect to -- I'm sorry. The second
25 issue was?

1 MR. MURPHY: The second issue, Your Honor,
2 was with respect to the immunity or the references
3 to --

4 THE COURT: Again, that's a matter of --
5 they've made opening statement. They're going to be
6 limited and restricted by the proof during their
7 closing. I think that's just a matter of what comes
8 out during cross. They certainly can ask if they have
9 a good faith basis. If they don't have a good faith
10 basis to think that someone has gotten immunity, I'm
11 sure they're not going to ask it. If there is an
12 immunity, they can bring it out. You can bring out
13 contrary evidence if that's not the case. I just think
14 it's a matter of proof at trial that's going to
15 establish the limits and contours of closing.

16 MR. MURPHY: Understood.

17 THE COURT: All right.

18 MR. MURPHY: And with respect to the redacted
19 Plea Agreements?

20 THE COURT: Yes. The fact that someone
21 agrees to a polygraph -- I mean, I understand the
22 substance of the polygraph is not admissible, and I
23 wouldn't expect counsel to ask whether they have taken
24 a polygraph exam. But it just seems to me it raises
25 more questions with the jury, what's in the redaction,

1 than not. I don't know that it's a big issue whether
2 the jury knows that or not. I just --

3 MR. MURPHY: To the extent that it's raised,
4 the government would just simply request that the
5 government is not permitted to put on evidence as to
6 the substance of that polygraph.

7 THE COURT: I think that's true. We're not
8 going to have results of polygraph exams.

9 MR. MURPHY: To the extent they have a
10 question about, oh, well, you can get polygraphed, did
11 you get polygraphed, I think there will need to be an
12 explicit instruction that --

13 THE COURT: Is there evidence of the
14 polygraph?

15 MR. MURPHY: There is not, Your Honor. That
16 does not preclude defense counsel --

17 THE COURT: I understand. So we don't have
18 any transcripts of what they said during a polygraph
19 exam?

20 MR. MURPHY: No, Your Honor.

21 THE COURT: All right. Does any defense
22 counsel want to respond to any of that?

23 MR. OATES: Your Honor, speaking on the
24 polygraph issue, I mean, I think the government has
25 said that he hasn't taken any polygraph tests yet.

1 Is that correct?

2 The government represented that he hasn't
3 taken any polygraph tests. I think that asking him
4 whether or not he has taken any polygraph tests since
5 that's a part of his Plea Agreement, I think, is
6 something for the jury to consider. I think that's
7 material.

8 THE COURT: Why would that be relevant?
9 What's that probative of? It's certainly not probative
10 of his credibility.

11 MR. OATES: Well, it's probative of the fact
12 that he hasn't taken any polygraph tests yet, and those
13 are still pending.

14 THE COURT: All right. I'm not going to let
15 you get into whether he has taken polygraphs or not.

16 MR. OATES: Okay.

17 THE COURT: All right. Mr. Conte.

18 MR. CONTE: Number one, Your Honor, I think
19 we can -- the government puts it in there, that they
20 can ask him to take a polygraph, and they haven't done
21 so just to verify his veracity. Whether there was a
22 polygraph or not, I think it's fair game. We could ask
23 them if there was one, whether or not they tried to
24 verify the witness' veracity.

25 As to the immunity issue, Javier Bonilla was

1 given a letter of immunity, and in that letter, it
2 specifically cites 18, United States Code,
3 Section 6002, which grants use immunity for any
4 statements he made and any derivative evidence that
5 comes from it.

6 THE COURT: You certainly can bring that out.
7 My only comment was that to the extent there was no
8 immunity agreement and counsel knows there was no
9 immunity, they can't imply that there was and that he's
10 operating under immunity.

11 MR. CONTE: Well, I'm sure myself and my
12 cocounsel have no intention of --

13 THE COURT: I understand. I think that was
14 Mr. Murphy's concern.

15 MR. CONTE: Very well.

16 THE COURT: All right. Yes, Mr. Krischer.

17 MR. KRISCHER: Good morning, Judge.

18 Just one additional issue. Yesterday the
19 Court instructed the government to take the specific
20 exhibit, which I had raised in my motion, back to the
21 interpreter. The interpreter is listed as a witness
22 today. They may have sent something to me, but since
23 I've been in the courthouse, I don't have access to
24 email. So I'm just wondering if that's been done.

25 THE COURT: All right. Have you gotten any

1 confirmation?

2 MR. MURPHY: Yes. Your Honor, I actually
3 spoke with him yesterday morning and again this
4 morning. He has now twice -- I think maybe three
5 times -- rereviewed that. He indicated to me that
6 based on the context, he believes that that term means
7 they. He is prepared to testify as to why he believes
8 that term means they, Your Honor.

9 THE COURT: And he's listened to the tape
10 again?

11 MR. MURPHY: Yes.

12 THE COURT: All right.

13 MR. KRISCHER: Thank, Judge.

14 THE COURT: Let me tell you about one
15 development. One of our jurors has reported sick,
16 Juror No. 8. She reported that she late last night
17 felt ill. So she's not here today. I'm excusing her.
18 We'll replace her with Alternate Juror No. 70. She's
19 been asked to take a rapid COVID test followed up with
20 a PCR test. Once we get those results, we'll decide
21 what, if anything else, we need to do. I'm going to
22 tell the jury that. We'll just proceed in that
23 fashion.

24 All right. Anything else we can take up?

25 MR. MURPHY: Not from the government, Your

1 Honor.

2 THE COURT: All right. We still have
3 Mr. Torres.

4 How long do you anticipate your cross,
5 Mr. Oates?

6 MR. OATES: So 10 minutes, 10 or 15 minutes,
7 Your Honor.

8 THE COURT: The same for you, Mr. Krischer?

9 MR. KRISCHER: That's correct, Judge. I
10 anticipate 10 or 15 minutes top. Since Mr. Oates
11 didn't begin yesterday, with the Court's permission,
12 I'll start, and Mr. Oates will follow.

13 THE COURT: That's fine.

14 All right. The Court will stand in recess,
15 until the jury is ready.

16 (Recess from 9:29 a.m. until 9:36 a.m.)

17 (The jury is not present.)

18 THE COURT: All right. Bring the jury in.

19 (The jury enters at 9:37 a.m.)

20 THE COURT: Please be seated.

21 Good morning.

22 I'm sorry to report that one of your jurors
23 reported late last night she became ill. Out of an
24 abundance of caution, she has not reported today, and
25 she's been excused. This is Juror No. 8, and she will

1 be replaced by Juror No. 70. I have asked her to take
2 a rapid COVID test followed up by a PCR test and will
3 advise you of any developments regarding that.

4 All right. Let's proceed.

5 Mr. Torres, you remain under oath.

6 THE WITNESS: Okay.

7 THE COURT: You may remove your mask to
8 testify.

9 Mr. Krischer.

10 MR. KRISCHER: Thank you, Judge.

11 CROSS-EXAMINATION

12 BY MR. KRISCHER:

13 Q Good morning, Mr. Torres.

14 A Good morning.

15 Q I want to talk about some of the things that you
16 discussed yesterday evening. You told us yesterday
17 that you joined MS-13 when you were 14 years old.

18 A Yes, 13, 14.

19 Q Was that a choice that you made on your own, or
20 were you forced?

21 A It's a decision I took.

22 Q Because you wanted to be a part of this gang?

23 A Yes, to get ready and to avenge the death of my
24 father.

25 Q Your father was killed in gang violence?

Blanco Torres - Cross

1 A No.

2 Q So what was there to avenge?

3 A Because the person who killed my father, he was at
4 the same place I was.

5 Q In El Salvador?

6 A Yes.

7 Q And you joined the Guanacos clique in El Salvador?

8 A Yes.

9 Q Was that also because that was the clique in your
10 area?

11 A Yes.

12 Q And then at some point, you went to drug
13 rehabilitation?

14 A Yes.

15 Q I'm sorry. About four years after you joined the
16 clique?

17 A Yes.

18 Q And at that time, you did it because you wanted to
19 get away from the gang?

20 A Yes.

21 Q And be a better person?

22 A Yes.

23 Q The rehab, was that residential? Did you live
24 there?

25 A Yes.

Blanco Torres - Cross

1 Q And that was also in El Salvador?

2 A Yes.

3 Q And you lived in the rehab for a year and ten
4 months?

5 A Yes. Well, at times at the center and the rehab
6 and some other times at the church.

7 Q That was connected or related to the rehab?

8 A Yes.

9 Q And during that time, you had no interaction with
10 gang members?

11 A No.

12 Q And that's why they wanted to kill you?

13 A Yes.

14 Q And so then you left El Salvador and came to the
15 United States?

16 A Well, when I left the rehab, I went back with the
17 gang, but by then the name was Coronados Lil Cycos.

18 Q So they're the same clique, Coronados and GLCS?

19 A No.

20 Q So when you came out of rehab, you stayed in
21 El Salvador and rejoined the gang?

22 A Yes. I was looking for work, and then I went back
23 to the gang.

24 Q Specifically to the Coronados clique?

25 A Yes.

Blanco Torres - Cross

1 Q You joined the Coronados clique because Guanacos
2 wanted to kill you?

3 A Yes.

4 Q And the Coronados did not kill you?

5 A No, because I started working with Coronados, and
6 then they would, you know, back me up when Guanacos
7 would try to kill me.

8 Q So they would back you up against Guanacos?

9 A Yes.

10 Q Now, you also talked about some of the people that
11 were involved in the murder that you committed, and I
12 wanted to go over again what their clique was, what
13 their relation to the gang was.

14 Erica Blanco is not in the gang?

15 A Angie Blanco?

16 Q Oh, I'm sorry. Yes, Angie Blanco. Thank you very
17 much. She was not in the gang?

18 A No.

19 Q Katie Portillo, she was not in the gang?

20 A She was not in the gang.

21 Q And you were in Coronados?

22 A Yes.

23 Q And what about Rasta?

24 A Coronados.

25 Q Cannabis?

Blanco Torres - Cross

1 A Via Satellite.

2 Q Slater or Slaker?

3 A Slaker.

4 Q What gang?

5 A Coronados.

6 Q And Jacob?

7 A Yes.

8 Q Coronados?

9 A Yes.

10 Q What was your rank in the GLCS in El Salvador?

11 A First, I was a *paro*.

12 Q And what was the highest rank you received in GLCS
13 in El Salvador?

14 A A *chequeo* and then homeboy.

15 Q And what rank --

16 MR. PATTERSON: Clarification?

17 MR. KRISCHER: Judge, may we approach?

18 THE COURT: Yes.

19 (Conference at the bench, as follows:)

20 MR. MURPHY: So I believe the response to the
21 question was *pasa de* homeboy, not homeboy. *Pasa de*
22 homeboy is a rank intermediate between *paro* and
23 homeboy, committed the crime to be a homeboy but have
24 not yet been formally jumped into the clique as a
25 homeboy. I just wanted to make sure we are correct on

Blanco Torres - Cross

1 the record that what he is saying is *pasa de* homeboy,
2 not that's a homeboy in GLCS.

3 THE INTERPRETER: I need to check with him.

4 MR. PATTERSON: He said *pasa de* homeboy,
5 which means he is in line to be a homeboy. It is a
6 term of art in MS-13.

7 THE INTERPRETER: Okay. Let me check.

8 THE COURT: All right. Good.

9 Let me just put on the record that all the
10 interpreters remain under oath.

11 THE INTERPRETER: Yes.

12 (Proceedings continued in open court, as follows:)

13 THE COURT: All right. We're going to have a
14 clarification.

15 BY MR. KRISCHER:

16 Q Just for the record, my question was what was the
17 highest rank that you achieved in GLCS in El Salvador?

18 A Which clique?

19 Q I'm sorry. We were at this point -- let's just
20 back up to the beginning so there's no confusion.

21 The highest rank you received in GLCS in
22 El Salvador?

23 A I was homeboy.

24 Q And then the highest rank that you achieved in
25 Coronados in El Salvador?

Blanco Torres - Cross

1 A Well, here in the United States, they were going
2 to jump me again for the death I committed.

3 Q But in El Salvador, before you left, what rank
4 were you in Coronados?

5 A *Chequeo*.

6 Q And then prior to the murder that you committed,
7 what was your rank in Coronados in Maryland?

8 A A *chequeo*.

9 Q At the time of the murder on New Year's Eve 2016,
10 you were a *chequeo* in the Coronados clique?

11 A Yes.

12 Q And what is your rank now?

13 A Now I don't have any rank.

14 Q Yesterday you talked about *paros* and that *paros*
15 did favors for the homeboys?

16 A Yes.

17 Q They basically did whatever the homeboys told
18 them?

19 A Yes.

20 Q Mainly, selling the drugs that the homeboys
21 purchased and gave them?

22 A Yes.

23 Q I want to talk a little bit about the Coronados
24 structure in the United States. You said that *Infierno*
25 was the first word in the Coronados clique?

Blanco Torres - Cross

1 A Yes.

2 Q And I think it was el Cantinflas was the second
3 word.

4 A El Cantinflas, yes.

5 Q And then you were only in the gang for about ten
6 months -- let me strike that.

7 You were in the United States for ten months
8 before the murder on New Year's Eve 2016?

9 A Yes.

10 Q And you were in the Coronados clique the whole
11 time?

12 A Yes, since I arrived from El Salvador.

13 Q And in all that time, you only attended one clique
14 meeting?

15 A Yes.

16 Q And do you recall when about that was?

17 A Like October.

18 Q That was about six months after you arrived?

19 A Yes.

20 Q At that meeting, did you discuss the murder of
21 Christian Sosa Rivas?

22 A No.

23 Q That came after, when Katie Portillo said that he
24 threatened her?

25 A That was before.

Blanco Torres - Cross

1 Q She said before the meeting?

2 A No. She said it after.

3 Q After. That's what I thought.

4 So you didn't discuss the Sosa Rivas murder in the
5 October clique meeting?

6 A No.

7 Q After that, Katie Portillo told you that Christian
8 Sosa Rivas had threatened her?

9 A Yes.

10 Q That's when the plan to kill him began?

11 A Yes.

12 Q And there was an investigation conducted by the
13 Coronados into Christian Sosa Rivas?

14 A Yes.

15 Q And you conducted that investigation?

16 A He already had a green light through the other
17 program, but I started investigating him on my own.

18 Q At the time you began your investigation, you
19 didn't know that the East Coast Program had issued a
20 green light?

21 A Well, yes. But before I killed him, there were
22 two attempts on his life.

23 Q By the East Coast Program?

24 A Yes.

25 Q Did you know that at the time you began your

Blanco Torres - Cross

1 investigation?

2 A Yes.

3 Q You've told us now that there's a green light
4 against you for testifying?

5 A Yes, that's obvious.

6 Q Who told you that there's a green light on you?

7 A Well, specifically, nobody told me, but I know
8 it's happened.

9 Q Just because in general, that's what would happen?

10 A Yes.

11 Q I want to talk about the murder on December 31,
12 2016.

13 A Yes.

14 Q You called Whisper to get permission to commit the
15 murder?

16 A Yes.

17 Q You did not talk to Infierno? You did not speak
18 with Infierno?

19 A No.

20 Q And when you got permission, you made the plan to
21 lure him to the park?

22 A Yes.

23 Q And he was smoking marijuana with the girls?

24 A Yes.

25 Q And then you came up and asked him if he had

Blanco Torres - Cross

1 marijuana to sell?

2 A Yes.

3 Q You did that to lure him further into the park?

4 A Yes.

5 Q To a more secluded area?

6 A Yes.

7 Q And when the attack began, you knocked him down?

8 A Yes.

9 Q You hit him so he would fall to the ground?

10 A Yes.

11 Q To make it easier for everybody else to beat and

12 kill him?

13 A Yes.

14 Q And you yourself stabbed him?

15 A I did not stab him.

16 Q Did you use any weapons?

17 A Rocks.

18 Q You beat him with a rock?

19 A Yes.

20 Q And after you had killed him, you dragged his body
21 to the water?

22 A Yes.

23 Q Then after you dragged the body to the water, you
24 piled rocks on it?

25 A Yes.

Blanco Torres - Cross

1 Q And you piled rocks on it to hide the body?

2 A Yes.

3 Q And for that, you got a mandatory life sentence?

4 A Yes.

5 Q And you hope by telling us that you committed this
6 murder, you will get a reduced sentence?

7 A Yes.

8 Q And at no time during the planning of this murder
9 was Jose Rosales Juarez involved?

10 A I don't know him. I don't know that name.

11 MR. KRISCHER: I have no further questions.

12 THE COURT: All right. Thank you.

13 Mr. Oates.

14 CROSS-EXAMINATION

15 BY MR. OATES:

16 Q Good morning, Mr. Torres.

17 A Good morning.

18 Q At the time on December 31, 2016, for the
19 Christian Sosa Rivas murder, how many members were
20 there in the Coronados clique?

21 A Well, you take into account *paros* and *chequeos*,
22 there were 27.

23 Q Okay. And how many members -- of that 27, how
24 many people were there for the murder of Christian Sosa
25 Rivas?

Blanco Torres - Cross

1 A Slaker, Rasta, Cannabis, myself, and Archangel.

2 Four from Coronados, one from Via Satellite.

3 Q Okay. So it's safe to say that not all 27 members
4 of the Coronados clique were involved?

5 A No.

6 Q Okay. And just because you're a member of the
7 Coronados clique doesn't mean that you were involved
8 with the murder of Christian Sosa Rivas in 2016?

9 A No.

10 Q You indicated that MS-13's biggest rival was 18th
11 Street, correct?

12 A Yes.

13 Q Is 18th Street a violent gang?

14 A Yes.

15 Q And members of 18th Street try to attack members
16 of MS-13, right?

17 A All the time, yes.

18 Q And would you say it's important to know if there
19 are 18th Street members around?

20 A Yes.

21 Q It also serves the function to protect yourself,
22 right?

23 A Yes.

24 Q You talked a little bit yesterday about being
25 disciplined by the gang.

Blanco Torres - Cross

1 A Yes.

2 Q One of the things that the gang requires is for
3 members to participate generally?

4 A Yes.

5 Q Respond to text messages?

6 A Yes.

7 Q Answer phone calls?

8 A Yes.

9 Q And what happens or what could happen if somebody
10 doesn't participate in the gang?

11 A Well, there are corrections. If he doesn't want
12 to beat hard, we will beat him. If he doesn't want to
13 participate, we do something.

14 Q You say if he doesn't want to participate, you do
15 something. What is that something?

16 A We give him a *calenton*.

17 Q So for a young man -- for example, say he was 18
18 years old -- who joins or begins the process of joining
19 MS-13, if he decides that it's not for him, how does he
20 get out?

21 A It depends on the rank that the person has.

22 Q Okay. Can you tell me what happens to somebody if
23 they want to leave based on the different ranks?

24 A Well, if the person doesn't want to stay in the
25 clique, they would kill him because they already given

Blanco Torres - Cross

1 that order against someone who wants to leave.

2 Q So let's say this. If a homeboy wants to leave
3 the gang, what happens?

4 A Well, if he just leaves on his own, they are going
5 to kill him.

6 Q Okay. What about a *chequeo*? If a *chequeo* wants
7 to leave the gang, what happens?

8 A They also kill him.

9 Q What about a *paro*?

10 A They give him a very good beating.

11 Q Have you ever heard of, like, a gang motto or
12 something that they go by, that MS-13 goes by?

13 A Well, they like to treat each other like beasts.

14 Q Is there a motto? Is there some sort of
15 three-word motto that MS-13 has?

16 A Well, I don't know what you mean.

17 Q To the best your knowledge, does MS-13 have a
18 three-word motto?

19 A I don't know. Your question, I don't understand
20 it.

21 Q Okay. So it's safe to say that you've never heard
22 of a three-word motto that MS-13 goes by?

23 A Homies, homeboy, La Mara Salvatrucha. There are
24 many, many words. I don't know which of the ones you
25 are looking for.

Blanco Torres - Cross

1 Q The rehabilitation that you did in El Salvador,
2 did you do that voluntarily, or were you ordered to do
3 that?

4 A Oh, on my own for my mom, for my family.

5 Q Okay. And before you left, did you tell them that
6 you had renounced gang life?

7 A Yes.

8 Q That, obviously, wasn't true, right?

9 A Well, I did give up on the gang, but when I was
10 going to church, they were following me. They were
11 trying to kill me.

12 Q And because you thought they were going to try and
13 kill you, you went back into the gang?

14 A Yes. I got tired that they were following me.

15 Q Have you ever been a member of the GLCS clique in
16 Virginia?

17 A No.

18 Q Now, Mr. Krischer asked you several questions
19 about you testifying here and giving information
20 assisting the government because you are seeking to
21 reduce your life sentence. Did you help provide
22 cooperation of the other people in the murder of
23 Christian Sosa Rivas?

24 A Yes.

25 Q You mentioned earlier that in the GLCS clique in

Blanco Torres - Redirect

1 El Salvador, you were a homeboy?

2 A Yes.

3 Q Have you ever told the government that you were
4 not a homeboy in the GLCS clique in El Salvador?

5 A No.

6 Q You've never told the government that you had some
7 other rank in GLCS in El Salvador?

8 A No.

9 MR. OATES: No further questions, Your Honor.

10 THE COURT: All right. Any redirect?

11 MR. PATTERSON: Just a couple of quick
12 questions.

13 THE COURT: All right.

14 REDIRECT EXAMINATION

15 BY MR. PATTERSON:

16 Q A minute ago you said there were 27 members of
17 Coronados when you were in it.

18 A Yes. The whole clique, yes.

19 Q And you included *paros* and *chequeos* in that 27?

20 A Yes.

21 Q Why did you include *paros* and *chequeos*?

22 A Well, because they are part of the clique.

23 Q Are they full members in the clique?

24 A But they are not homeboys, not yet. But they are
25 part of the clique.

Blanco Torres - Redirect

1 Q Thank you.

2 Are *observaciones* also a part of the clique?

3 A Yes.

4 Q And one last question: What does the government
5 expect you to do with respect to your cooperation when
6 you testify?

7 A To be correct, to be real with the transparency of
8 my testimony.

9 Q To be honest?

10 A Yes.

11 MR. PATTERSON: Thank you. I have no further
12 questions.

13 THE COURT: All right. The witness may be
14 excused?

15 (No response.)

16 THE COURT: Mr. Torres, you're excused. Do
17 not discuss your testimony outside of the courtroom
18 with any other witness.

19 (The witness stands aside.)

20 THE COURT: The government will call its next
21 witness.

22 MS. LOWE: The government calls Michael Furr.

23 THE COURT: All right. Mr. Furr will come
24 forward, please.

25 Mr. Furr, if you're vaccinated, you may

Furr - Direct

1 testify without your mask.

2 THE WITNESS: Yes. Thank you.

3 THE COURT: Counsel.

4 MICHAEL FURR, GOVERNMENT'S WITNESS, AFFIRMED

5 DIRECT EXAMINATION

6 BY MS. LOWE:

7 Q Good morning. Would you please state your full
8 name and spell it for the record.

9 A Michael Furr, M-I-C-H-A-E-L, F-U-R-R.

10 Q And where do you work, Mr. Furr?

11 A Prince William County Police Department.

12 Q How long have you worked for the Prince William
13 County Police Department?

14 A A little more than ten years.

15 Q What's your position there?

16 A Currently I'm assigned as a crime scene technician
17 to the forensic services section.

18 Q And what does a crime scene technician do?

19 A We respond to major incidents that occur in the
20 county. We document those scenes through advanced
21 evidence collection and scene documentation techniques.
22 These cases range from homicides, robberies, malicious
23 woundings, bank robberies, suspicious debts. I guess
24 that's our main responsibility.

25 Q And how long have you been a crime scene

Furr - Direct

1 technician?

2 A Five years.

3 Q Over your career, approximately how many crime
4 scenes have you processed?

5 A Hundreds of crime scenes.

6 Q What was your position before being a crime scene
7 technician?

8 A I was a patrol officer. I also served as a crime
9 scene technician handling some lower-level not as high
10 profile cases.

11 Q In January 2017, were you a crime scene
12 technician?

13 A Can you repeat the date there?

14 Q In January 2017.

15 A I was assigned as a crime scene investigator, not
16 a crime scene technician.

17 Q And does the responsibilities of a crime scene
18 investigator -- are those the same as a crime scene
19 technician?

20 A No, ma'am. We're not responding to calls for
21 service typically. It's when our CID unit calls us out
22 to respond to those major incidents, crimes that might
23 require advanced techniques that the typical patrol
24 crime scene technician is not equipped or trained to
25 handle.

Furr - Direct

1 Q And you said CID. Can you define what that is?

2 A Our detectives, I guess.

3 Q So I want to direct your attention to January 12,
4 2017.

5 A Yes, ma'am.

6 Q Were you working that day?

7 A I was.

8 Q While you were working that day, what location did
9 you respond to?

10 A I responded just south of Tim's Rivershore
11 Restaurant for a report of a deceased male that was
12 floating on the shoreline in the Potomac River. This
13 is at the end of Cherry Hill Road, which is in Prince
14 William County.

15 Q And who was the man?

16 A Christian Sosa Rivas.

17 Q How many other crime scene technicians responded
18 to that scene?

19 A Numerous. It was a large scene. I don't recall
20 the exact number. We also had patrol officers and
21 detectives on scene as well.

22 Q Who was the lead crime scene investigator?

23 A I was.

24 Q How was it determined that you would be the lead?

25 A By my supervisor.

Furr - Direct

1 Q Before we talk about what you did at the crime
2 scene, can you please describe for the jury what the
3 crime scene looked like?

4 A Sure. The scene itself is located -- as I
5 mentioned earlier, it was south of Tim's Rivershore
6 Restaurant. Cherry Hill Road runs east directly
7 towards the Potomac River. The road turns after
8 crossing a railroad track right at a gravel parking
9 lot. The gravel parking lot overlooks a clearing that
10 you can see the Potomac River. There's a wooden dock
11 that extends in the Potomac River, a T-shaped dock. So
12 to the north of that dock was Tim's Rivershore, and to
13 the south of that dock was where the deceased male was
14 located.

15 He was floating in the water, but his shoulders
16 and his head had washed up on the shore. The shoreline
17 was pretty rocky, not only with rocks but also with,
18 like, construction debris, concrete chunks and bricks
19 as well. He was laying face up in the water. He had
20 no shirt on. He had a pair of sweatpants on, white
21 shoes. There were numerous what appeared to be blunt
22 force and sharp force injuries to his face, to his
23 chest -- or to his hands and eventually through further
24 documentation and examining the body to his back as
25 well.

Furr - Direct

1 I think that describes the scene.

2 Q What did you do with the body?

3 A Initially, I took overall midrange and close-up
4 photographs of the decedent in the condition that he
5 was in when we arrived. So partially in the water,
6 partially out of the water. I focused on not only
7 capturing the overall condition, but focusing then on
8 several of the visible injuries that I could see from
9 the shoreline, also documenting some of the tattoos
10 that the individual had. Eventually, the decedent was
11 removed from the water, pulled up on the shore for
12 additional photographs. I believe an investigator with
13 the medical examiner's office responded as well.

14 MS. LOWE: No further questions.

15 THE COURT: All right. Thank you.

16 Any cross? Who is going to take the lead?

17 MR. WALSH: No cross.

18 THE COURT: All right. Thank you.

19 Officer, you're excused.

20 THE WITNESS: Thank you, sir.

21 THE COURT: Do not discuss your testimony
22 outside of the courtroom with any other witness.

23 (The witness stands aside.)

24 THE COURT: The government will call its next
25 witness.

Posthumus - Direct

1 MR. MURPHY: The government calls Dr. Jocelyn
2 Posthumus.

3 THE COURT: I'm sorry. Who is it?

4 MR. MURPHY: Dr. Jocelyn Posthumus.

5 THE COURT: Dr. Jocelyn Posthumus will come
6 forward, please.

7 Dr. Posthumus, if you're vaccinated, you may
8 testify without your mask.

9 THE WITNESS: Excuse me?

10 THE COURT: If you're vaccinated, you may
11 testify without your mask.

12 THE WITNESS: Is it okay if I leave it on?

13 THE COURT: Yes.

14 THE WITNESS: Okay. Thank you.

15 JOCELYN POSTHUMUS, GOVERNMENT'S WITNESS, AFFIRMED

16 DIRECT EXAMINATION

17 BY MR. MURPHY:

18 Q Could you state and spell your name for the
19 record.

20 A My name is Jocelyn Posthumus, J-O-C-E-L-Y-N,
21 P-O-S-T-H-U-M-U-S, and I'm assistant chief medical
22 examiner here in Virginia in the Northern District
23 office, which is located in Manassas.

24 Q How long have you been the assistant chief medical
25 examiner here in Northern Virginia?

Posthumus - Direct

1 A Nine years.

2 Q Would you please describe to the jury your
3 educational background and professional training.

4 A Certainly. I received my medical degree at Robert
5 Wood Johnson, which is in New Jersey, followed by a
6 four-year combined residency in anatomic and
7 neuropathology at the University of Virginia,
8 subsequently followed by a one-year fellowship in
9 forensic pathology at Virginia Commonwealth University
10 here in Richmond, Virginia.

11 Q Dr. Posthumus, what is your specialty?

12 A My specialties are anatomic pathology,
13 neuropathology, and forensic pathology.

14 Q What is forensic pathology?

15 A Forensic pathology is the study of natural disease
16 processes and injuries as they pertain to the body in
17 order to determine a cause or manner of death.

18 (Reporter clarification.)

19 A So forensic pathology is a study of natural
20 disease processes, as well as injuries, as they pertain
21 to the body in order to determine a cause or manner of
22 death.

23 Q Are you a board certified forensic pathologist?

24 A Yes. I'm board certified in anatomic pathology
25 and neuropathology and forensic pathology.

Posthumus - Direct

1 Q And, Dr. Posthumus, what are your primary duties
2 as an assistant chief medical examiner?

3 A So my primary duties are to perform external
4 examinations and autopsies in order to determine a
5 cause or manner of death, writing death certificates,
6 issuing autopsy reports, and testifying in court as
7 needed.

8 Q And how many autopsies have you performed during
9 your career?

10 A I performed approximately 1,600.

11 Q And approximately how many of those autopsies did
12 you determine that the manner of death was a homicide?

13 A Approximately 400.

14 Q Have you ever testified in court as an expert in
15 forensic pathology before?

16 A Yes, I have.

17 Q How many times?

18 A At least 50.

19 Q And in what courts have you testified as an expert
20 in forensic pathology?

21 A I testified in federal courts, also local courts,
22 criminal and civil.

23 Q Have you ever testified in this court as an expert
24 on forensic pathology?

25 A Yes, I have.

Posthumus - Direct

1 Q Dr. Posthumus, I'd like to have the court security
2 officer hand you now what's been marked as Government
3 Exhibit 59-4A.

4 A Yes.

5 Q Do you recognize that document?

6 A Yes, I do.

7 Q What is Government Exhibit 59-4A?

8 A This is a copy of my CV.

9 Q Does that CV contain your educational background
10 and professional training reflecting your experience as
11 a forensic pathologist?

12 A Yes, it does.

13 Q And does this CV accurately reflect your training
14 and experience?

15 A Yes, it does.

16 MR. MURPHY: Your Honor, at this time, I'd
17 ask that Government Exhibit 59-4A be admitted into
18 evidence.

19 THE COURT: Any objection?

20 MR. WALSH: No objection.

21 MR. KRISCHER: No objection.

22 THE COURT: Without objection, Government
23 Exhibit 59-4A is admitted.

24 MR. MURPHY: Your Honor, at this time, the
25 government offers Dr. Jocelyn Posthumus as an expert in

Posthumus - Direct

1 forensic pathology.

2 THE COURT: All right. Any objection?

3 MR. WALSH: No objection.

4 MR. KRISCHER: No objection.

5 THE COURT: All right. Without objection,
6 the Court recognizes Dr. Posthumus as someone who may
7 express opinions based on her experience and training
8 in the area of forensic pathology.

9 BY MR. MURPHY:

10 Q Dr. Posthumus, were you notified in January 2017
11 of a recovery of a body found washed up on the shore of
12 the Potomac River?

13 A Yes, I was.

14 Q What did you determine to do with that body?

15 A It was determined that there was trauma to the
16 body. Therefore, under the Virginia Code, it fell
17 under the jurisdiction of the medical examiner's
18 office. So I accepted the case and performed an
19 autopsy the following day on January 13.

20 Q Who authorized that?

21 A I did.

22 Q Now, who was the subject of that particular
23 autopsy?

24 A It was Mr. Sosa Rivas.

25 Q I'm going to show you now in that same exhibit

Posthumus - Direct

1 binder what's been marked for identification as
2 Exhibit 59-4B.

3 A Yes.

4 Q Do you recognize that document?

5 A Yes, I do.

6 Q What is Government Exhibit 59-4B?

7 A This is a copy of my autopsy report on Mr. Sosa
8 Rivas, as well as including view diagrams.

9 Q Does your signature appear on the bottom of page 1
10 of that report?

11 A Yes, it does.

12 Q When did you perform that autopsy?

13 A I performed the autopsy on January 13, 2017.

14 Q What did you determine the manner of death was?

15 A The manner of death was homicide.

16 Q What did you determine the cause of death was?

17 A The cause of death was blunt force trauma to the
18 head and shoulders, injuries to the head, neck, and
19 back.

20 MR. MURPHY: Your Honor, at this time, I'd
21 ask that Government Exhibit 59-4B be admitted into
22 evidence.

23 THE COURT: Any objection?

24 MR. WALSH: No objection.

25 MR. KING: No objection.

Posthumus - Direct

1 THE COURT: All right. Without objection,
2 59-4B is admitted.

3 BY MR. MURPHY:

4 Q Dr. Posthumus, how did you receive the victim's
5 body for examination?

6 A Mr. Sosa Rivas was received in a sealed body bag
7 at our facility, which is located in Manassas.

8 Q How was that body bag marked?

9 A It was marked with a tag from law enforcement.

10 Q What was the condition of the body when you
11 received it?

12 A So after breaking the seal, the decedent was
13 received partly clothed with pants, sneakers, and
14 socks, and the body was wet and covered in debris.

15 Q Dr. Posthumus, I'd like you to look at what's been
16 marked as Government Exhibit 59-5A.

17 A Yes.

18 Q Do you recognize that photograph?

19 A Yes, I do.

20 Q What does Government's Exhibit 59-5A depict?

21 A This is a photograph taken at our facility of the
22 seal, the body bag seal and tag.

23 Q Does the photograph in Government Exhibit 59-5A
24 fairly and accurately depict the body bag tag of the
25 body that you conducted the autopsy on?

Posthumus - Direct

1 A Yes, it does.

2 MR. MURPHY: Your Honor, I'd ask that
3 Government Exhibit 59-5A be admitted into evidence.

4 THE COURT: Any objection?

5 MR. WALSH: No objection.

6 THE COURT: Government Exhibit 59-5A is
7 admitted.

8 MR. MURPHY: I request to publish, Your
9 Honor.

10 THE COURT: Yes.

11 BY MR. MURPHY:

12 Q Dr. Posthumus, what's identified there with
13 respect to the name in Government Exhibit 59-5A?

14 A So what you can appreciate in this photograph is a
15 ruler with the marking of NO13-17. That is the
16 arbitrary autopsy number designated by my office, and
17 then you can appreciate the red seal at the top portion
18 of the picture and then the body bag tag from law
19 enforcement with the decedent's name. I will note that
20 it is misspelled. There's an extra S in this
21 photograph.

22 Q Thank you, Dr. Posthumus.

23 Now, what decomposition, if any, did you note
24 during your examination of Christian Sosa Rivas' body?

25 A So there were decompositional changes present,

Posthumus - Direct

1 fairly early stages, which included skin discoloration,
2 including marbling, which is just part of the
3 decomposition of the vessels in your body, as well as
4 what we call internal organ autolysis, which is your
5 internal organs breaking down from both enzyme
6 activity, your natural enzymes in your body, as well as
7 bacterial overgrowth.

8 Q Now, did you observe any evidence of injury during
9 your autopsy to Mr. Sosa Rivas' body?

10 A Yes, I did.

11 Q Did you observe injuries specifically to his head
12 and neck?

13 A Yes, I did.

14 Q What kind of injuries did you observe to his head
15 and neck?

16 A So to his head and neck, the blunt force trauma
17 and sharp force injuries.

18 Q How many injuries did you observe specifically to
19 his head and neck?

20 A To the head and neck, there were a total of 11
21 lacerations, which are tears to the skin. There was a
22 single avulsion, which is a severe form of a laceration
23 basically extending through all tissues. In addition
24 there were ten stab wounds, and there were seven
25 incised wounds to the head and neck region.

Posthumus - Direct

1 Q Can you explain to the jury what an incised wound
2 is?

3 A So an incised wound is an injury inflicted by a
4 sharp implement that cuts and divides tissue as it
5 penetrates. The difference between an incised wound
6 and a stab wound is that an incised wound is longer
7 than it is in depth.

8 Q Did you have an opinion as to -- or did you
9 formulate an opinion as to what caused the stab and
10 incised wounds that you observed to Christian Sosa
11 Rivas' head and neck?

12 A So the sharp force injury was consistent with a
13 single-edged knife, something similar to a knife in the
14 kitchen block, your butcher block at home.

15 Q Now, you testified that you observed blunt force
16 injuries to the victim's body. Can you describe to the
17 jury what a blunt force injury is?

18 A So a blunt force is a crushing or tearing injury
19 inflicted by a nonsharp object. In this case, as I
20 mentioned, there were 11 lacerations or tears to the
21 head and neck region and then a single avulsion to the
22 head, which is just a severe form of a laceration
23 extending through all tissues and exposing skull.

24 Q Did you observe any injuries to the victim's
25 brain?

Posthumus - Direct

1 A Yes, I did.

2 Q What were those injures?

3 A So these blunt force injuries to the head and neck
4 region caused crushing of the skull. There was
5 multiple fragmentation of Mr. Sosa Rivas' skull base,
6 which resulted in tearing of the brain itself.

7 Q Did you observe any injures to Mr. Sosa Rivas'
8 torso area?

9 A Yes, I did.

10 Q What kind of injuries did you observe to his
11 torso?

12 A The torso had 11 stab wounds to the back.

13 Q Did you observe any injuries that you determined
14 to be defensive-type injuries on Mr. Sosa Rivas?

15 A Yes. Mr. Sosa Rivas had four sharp force injuries
16 to the hands, two perforated stab wounds to the right
17 hand and then two incised wounds.

18 MR. MURPHY: Your Honor, at this time, I
19 would request to publish what's been entered already as
20 Government Exhibit 59-4B.

21 MR. WALSH: Judge, I object.

22 THE COURT: You want to publish portions of
23 it?

24 MR. MURPHY: Yes.

25 MR. WALSH: Judge, I'm going to object.

Posthumus - Direct

1 THE COURT: Yes.

2 Go ahead. You may.

3 BY MR. MURPHY:

4 Q Dr. Posthumus, looking on the diagram on page 8 of
5 what's been entered as Government Exhibit 59-4B, can
6 you explain to the jury what evidence of injuries are
7 reflected here?

8 A So this diagram -- first, let me try to explain
9 it. This diagram is what is referred to as the skull
10 base. So if you remove the top portion of your skull
11 and you're looking at it downwards towards your feet.
12 The black dark scribble lines are all fractures.

13 May I touch and show?

14 Q Yes, you may.

15 A The most significant is here to here if I draw a
16 straight line. That's called a hinge fracture where
17 it's through and through the skull base to the point
18 where you can actually separate the skull into two
19 separate pieces.

20 Q Now, looking at the diagram on the next page on
21 Government Exhibit -- or page 9 of this exhibit, can
22 you describe for the jury what evidence of injury is
23 depicted on this practitioner diagram?

24 A So this diagram is the skeletal diagram of the
25 head and neck region. What you can appreciate here is

Posthumus - Direct

1 on the sides of the head here and then here, there's
2 extensive fracturing where the skull is in multiple
3 pieces.

4 Q And looking at the diagram on the next page,
5 page 10 of this exhibit, can you explain to the jury
6 what evidence of injury is depicted here?

7 A So this is a body diagram, and it demonstrates
8 both injury as well as medical or identifying features.
9 First, to highlight, the letter T indicates a tattoo.

10 But to focus on the back, all of those letterings,
11 AC, AD, AF, those represent stab wounds, and those
12 letters correlate to the injury in the autopsy report.

13 Q If we go to the next diagram, what evidence of
14 injury is depicted on this diagram?

15 A So this is a diagram of the hand, and there are
16 two perforating stab wounds to the right hand, S and T,
17 which exit on the palmar surface here at U and V.
18 Again, these letters are for ease of reference for you
19 to correlate the location on a few diagrams to the
20 autopsy report.

21 Here on the left palmar surface is a very large
22 incised wound, and there's an additional injury here,
23 which is an incised wound on the right finger.

24 Q And if we can go to the next diagram, what
25 evidence of injuries are depicted here, Dr. Posthumus?

Posthumus - Cross

1 A So this is, obviously, the diagram of the head and
2 neck, including the skin. Again, the letters will
3 designate sharp force and then blunt force injuries to
4 the head and neck region.

5 Q Thank you, Dr. Posthumus.

6 Now, after you completed the autopsy, what did you
7 do with the victim's remains?

8 A The remains do go back into the body bag and then
9 are released to the next of kin. In this case, I did
10 retain the brain for further examination at a later
11 date, as well as a portion of the ribs, and ceded it to
12 law enforcement because there was toolmarkings on the
13 ribs.

14 MR. MURPHY: Thank you, Dr. Posthumus.

15 No further questions for the witness at this
16 time, Your Honor.

17 THE COURT: Thank you.

18 Any cross?

19 MR. WALSH: Yes, Your Honor.

20 CROSS-EXAMINATION

21 BY MR. WALSH:

22 Q Good morning, Dr. Posthumus.

23 A Good morning.

24 Q So when we look at these diagrams, can you tell me
25 what is the first injury this person received?

Posthumus - Cross

1 A I cannot tell you the order of the injuries, no.

2 Q Can you tell me the duration of these injuries?

3 A No, I cannot.

4 Q So it's safe to say some of these injuries could
5 have happened at a later date?

6 A Define "later date," please.

7 Q Maybe the next day.

8 A No. All of these injuries were sharp force and
9 then the lacerations to the head occurred around the
10 time of death.

11 Q When you say around the time of death, could that
12 be hours or not?

13 A It could, yes.

14 Q Okay. And you said when you received the body, it
15 was wet, right?

16 A Correct.

17 Q I think you mentioned pooling of blood. Was there
18 pooling of blood in a certain area of the body, or had
19 the body been moved around?

20 A There was no residual blood within the body
21 cavities.

22 Q So if a person is killed and falls down and it's a
23 homicide and stays in one position, the blood pools to
24 the lower end of it, correct?

25 A Correct. You're describing livor.

Posthumus - Cross

1 Q Excuse me?

2 A Livor, L-I-V-O-R.

3 Q I couldn't think of the word. That's right.

4 And there was none of that; is that correct?

5 A Do you mind if I refer to the report?

6 Q Please.

7 A The document is indeterminate, which means I could
8 not appreciate the lividity pattern.

9 Q What, if anything, did water do with this -- do
10 towards your autopsy?

11 A Right. So it's not uncommon, especially with a
12 prolonged submersion, that the livor pattern is
13 indeterminate because they are either floating in the
14 water or they're on the ground, let's say, on the river
15 bed. So it's not uncommon that with prolonged
16 submersion that the livor pattern was indeterminate.
17 There's also the potential for animal predation and
18 then, of course, the decompositional changes we have to
19 take into consideration.

20 Q Tell me about animal predation.

21 A Animal predation?

22 Q Yes, please.

23 A So the body can be eaten by whatever organisms and
24 animals that are located in that natural body of water.

25 Q So it's safe to say that when you receive the

Posthumus - Cross

1 body, it may not look exactly the same way it looked at
2 the time of death, correct?

3 A It most definitely did not.

4 MR. WALSH: Fair enough. That's all the
5 questions I have. Thank you.

6 THE COURT: Any other questions?

7 MR. CONTE: No questions, Your Honor.

8 MR. OATES: No questions.

9 MR. KRISCHER: No questions.

10 THE COURT: All right. Any redirect?

11 MR. MURPHY: No, Your Honor.

12 THE COURT: All right. Thank you, Doctor.
13 You're excused.

14 (The witness stands aside.)

15 (The testimony of Claudio Saa is under separate
16 cover.)

17 THE COURT: Ladies and gentlemen, we're going
18 to take our luncheon break. We'll reconvene at 2:15.
19 Please do not discuss this case among yourselves during
20 the luncheon recess.

21 (The jury exits at 1:08 p.m.)

22 THE COURT: Who is the government's next
23 witness?

24 MR. MURPHY: Johnnie Benningfield, Your
25 Honor.

1 THE COURT: All right. The Court will stand
2 in recess.

3 (Recess from 1:08 p.m. until 2:20 p.m.)

4 (The jury is not present.)

5 THE COURT: All right. Anything before we
6 bring the jury out?

7 MR. MURPHY: Not from the government.

8 THE COURT: All right. Let's bring the jury
9 out.

10 (The jury enters at 2:20 p.m.)

11 THE COURT: Please be seated.

12 I'm pleased to tell you that Juror No. 8 has
13 reported that her rapid test has come back negative.
14 She's arranging to have a PCR test, and I'll keep you
15 posted.

16 Counsel.

17 MR. MURPHY: Yes, Your Honor. The government
18 calls Johnnie Benningfield.

19 THE COURT: All right. Mr. Benningfield.

20 Mr. Benningfield, if you're fully vaccinated,
21 you're welcome to remove your mask.

22 THE WITNESS: Thank you, Your Honor.

23 JOHNNIE BENNINGFIELD, II, GOVERNMENT'S WITNESS,

24 AFFIRMED

25 DIRECT EXAMINATION

Benningfield - Direct

1 BY MR. MURPHY:

2 Q Good afternoon, Mr. Benningfield.

3 Can you please introduce yourself to the Court and
4 please spell your name for the court reporter.

5 A Good afternoon. Yes. My name is Johnnie Luther
6 Benningfield, II.

7 I'm a professional translator and interpreter.
8 That's what I do by profession.

9 Q Can you spell your first and last names for the
10 court reporter?

11 A Sure. Johnnie, J-O-H-N-N-I-E, Benningfield,
12 B-E-N-N-I-N-G-F-I-E-L-D.

13 Q What languages do you speak?

14 A I'm certified as a professional translator and
15 interpreter for Spanish and English.

16 Q What languages do you read?

17 A Those two languages for sure.

18 Q What was your first exposure to the Spanish
19 language?

20 A From home, birth. My mother was -- that was her
21 native language.

22 Q How proficient are you in Spanish?

23 A As proficient as I am in English.

24 Q And what is your occupation?

25 A I work as an interpreter and translator. I am

Benningfield - Direct

1 certified as such by the Administrative Office of the
2 United States Federal Courts in accordance with
3 Title 28 of the United States Code, Section 1827.

4 Q And are you certified as a Spanish language
5 interpreter for federal court proceedings?

6 A I am. All U.S. federal courts, yes.

7 Q When were you first certified to work in courts as
8 an interpreter?

9 A I was first certified in 1992 in New Mexico state
10 courts.

11 Q Did you have to take a test to receive that
12 certification at that time?

13 A I did. I had to take two tests. I had to first
14 take a written test, and then I -- upon passage of that
15 test, I was invited to take the oral test. And upon
16 passing that test, I was certified to work the New
17 Mexico state courts.

18 Q Now, when were you first certified as an
19 interpreter in federal courts?

20 A I was first certified in the federal courts in
21 1998. I took the written test in 1997, and later that
22 year in '97, I was invited to take the oral. All the
23 paperwork and background, security, etc., wasn't done
24 until early 1998, when I received the certification.

25 Q Okay. Was there a written certification exam in

Benningfield - Direct

1 that process?

2 A For the federal test, yes, there was a written
3 exam. The test I took consisted of 160 different
4 questions, very similarly to a GRE, a Graduate Review
5 Exam. The test does not test your ability -- the
6 written portion does not test your ability to translate
7 or interpret. It tests your knowledge of each language
8 independently, your knowledge of English as a language
9 and your knowledge of Spanish as a language in itself.

10 Q Have you previously prepared transcripts of
11 recorded materials in Spanish?

12 A Yes. I began working with transcripts probably
13 shortly after I was originally certified in New Mexico
14 state courts around 1993.

15 Q And have you continuously prepared transcripts for
16 courts since that time?

17 A I have.

18 Q How many cases have you worked on that required
19 you to provide transcription services?

20 A I haven't counted up the number of cases actually.
21 During the -- since certification in '92, which is
22 approximately 30 years ago, I've pretty much had
23 something going every year, sometimes two or three
24 cases that require some transcription; maybe a year in
25 which there wasn't. But I could roughly and very

Benningfield - Direct

1 easily say between 60 to 100 cases.

2 Q How many cases have you worked on that involved
3 the translation of wiretap evidence from English to
4 Spanish?

5 A I haven't added that number up exactly either. It
6 would have been after I was federally certified. I
7 don't know the exact number, but it's been since '98 on
8 occasion. Once every year or two there's been some
9 type of transcription going on with wiretaps.

10 Q Have you been qualified as an expert witness in
11 matters of translations and transcriptions in the
12 Spanish language to the English language?

13 A I have.

14 Q And how many times have you testified as an expert
15 in court?

16 A I haven't added up those numbers either. I would
17 estimate somewhere between 15 and 20 times.

18 Q And when was the last time you were qualified as
19 an expert in the Spanish language in court?

20 A It was before the COVID pandemic. At least a
21 couple of years ago.

22 Q Which court was that?

23 A It was either for the District of Maryland or the
24 Eastern District of Virginia, one of those two
25 districts. It may have been here, or it may have been

Benningfield - Direct

1 in the District of Maryland.

2 Q I'm going to have you, with the assistance of the
3 court security officer, look at what's been marked as
4 Government's Exhibit 18-31A.

5 A Okay. I have it.

6 Q Do you recognize that document?

7 THE COURT SECURITY OFFICER: Sir, 31A?

8 MR. MURPHY: Yes, 18-31A.

9 A Yes, I see it.

10 Q Do you recognize that document?

11 A Yes. It's my CV.

12 Q Does this CV contain your training,
13 certifications, publications, and experiences as a
14 Spanish-to-English-language professional translator?

15 A It does.

16 Q Does that CV contain a list of references to
17 courts and judges by whom you've been qualified as an
18 expert?

19 A A limited list, yes.

20 Q Does that CV accurately reflect your training and
21 experience?

22 A Yes.

23 MR. MURPHY: Your Honor, at this time, the
24 government would ask that Government's Exhibit 18-31A
25 be admitted into evidence.

Benningfield - Voir Dire

1 THE COURT: Any objection?

2 MR. WALSH: No objection.

3 THE COURT: Without objection, Exhibit 18-31A
4 is admitted.

5 MR. MURPHY: Your Honor, at this time, the
6 government would offer Mr. Johnnie Benningfield as an
7 expert in Spanish to English translations.

8 THE COURT: Any objection?

9 MR. KRISCHER: Can I voir dire, Judge?

10 THE COURT: Yes.

11 VOIR DIRE EXAMINATION

12 BY MR. KRISCHER:

13 Q Good afternoon, Mr. Benningfield.

14 A Good afternoon. How are you today?

15 Q Very good. Thank you.

16 A Good.

17 Q So you are a certified court interpreter; is that
18 correct?

19 A That's correct.

20 Q From English to Spanish and Spanish to English?

21 A That's correct.

22 Q And it looks like from your CV that the last time
23 that there was a certification was 2002. Is that
24 correct? Looking at your CV, Spanish language contract
25 interpreter, United States Department of State, 2002?

Benningfield - Voir Dire

1 A Yes. That was a separate test I took with the
2 State Department, yes.

3 Q Do you have to take annual proficiency tests to be
4 an interpreter in federal court?

5 A I have to take continuing education courses
6 annually, yes. I have to take a course every year, and
7 I did not mention also teach a course every year for
8 the State of Texas.

9 Q Is it fair to say that Spanish can vary from
10 region to region?

11 A Certainly.

12 Q You said you first learned Spanish from your
13 mother?

14 A Yes, that's correct.

15 Q And what region was she from that she had spoken
16 Spanish?

17 A Mexico.

18 Q Mexico. And is that Spanish -- can that be
19 different from countries in Central America?

20 A Yes.

21 Q And from those regions, you might have different
22 interpretations for different words?

23 A Certainly.

24 Q And different slang you might also have for
25 different words?

Benningfield - Voir Dire

1 A Of course.

2 Q Did you ever have any formal studies in Spanish?

3 A Yes.

4 Q And that was -- pardon me. That was at the
5 University of Texas Pan American in Edinburg, Texas?

6 A That's correct.

7 Q And did that -- strike that.

8 So there are times then when you're translating
9 where perhaps the local dialect or region is unfamiliar
10 to you?

11 A There's always an element of learning in all work
12 that we do always.

13 Q And you also testified and have translated
14 wiretaps; is that correct?

15 A That's correct.

16 Q And those wiretaps are varying audio quality; is
17 that fair to say?

18 A That is correct.

19 Q Do you have any special training with regard to
20 deciphering the audio quality of a recording?

21 A Special training? I don't know if I have special
22 training. I load the audio into different software
23 that we have, including Pro Tools and Scribe, which are
24 a couple of the software applications that we use.
25 Especially Pro Tools can give back a digital

Benningfield - Voir Dire

1 calculation of quality of audio, etc.

2 So I don't know if you want to call it specialized
3 training. I think a lot of my training has come from
4 work experience actually, on-the-job experience. Once
5 you pass the test, you're kind of asked to take on a
6 lot of different tasks from a variety of different
7 countries. Over the years, that experience adds to
8 your knowledge base.

9 Q You mentioned the Pro Tools and it does an
10 analysis of the audio quality. Does it also enhance
11 the audio quality?

12 A If you ask it to, it can.

13 Q So in some cases, it might alter the original file
14 to make it sound different?

15 A If you ask it to, it will.

16 Q You talked about -- there's two tests for some of
17 the certifications. One was a written, and one was an
18 oral. Correct?

19 A That's correct.

20 Q So the written portion just tests your
21 proficiency?

22 A That's correct, and knowledge.

23 Q And knowledge. Thank you.

24 And the oral part, I assume that goes more towards
25 your ability to translate.

Benningfield - Voir Dire

1 A Yes. That actually does test your proficiency.
2 The oral portion is a mock trial, and it's recorded.
3 And three independent analysts analyze your rendition
4 and determine if your rendition racks up enough points.
5 The way it works is that the test has underlying
6 phrases that are worth so many points, and you have to
7 get each of those phrases correct in order to
8 accumulate the number of points to get an objective
9 score at the end of the test to pass the test.

10 Q If you come across a word or phrase that's
11 unfamiliar to you, what do you do?

12 A I may research it. I may leave it in its source
13 form and just put it in italics. I may put it
14 something as -- something that I did not comprehend,
15 that was unintelligible for me.

16 Q Sometimes do you put in multiple possibilities of
17 what the translation could be?

18 A That's not if you don't understand. If you put in
19 multiple possibilities, that means that if something
20 was written out with an accent mark that normally would
21 have been written there but the writer did not write it
22 because of -- just frequently in text messages, people
23 are not assuring the accent marks are in the correct
24 spots.

25 You say, Okay, this could mean this. Had an

Benningfield - Voir Dire

1 accent mark been included over this, that could mean
2 that.

3 So if you find in some of the work that you may
4 see in this case, it could be this or it could be that,
5 it's simply because of the limited context that I was
6 given and the possibility of an accent mark that should
7 have been there that wasn't. It's one of those two
8 possibilities. So if you see that, that's what that
9 means.

10 It does not mean, I guess it might be this, and I
11 guess it might be that. That's not what that means.

12 Q But it could be multiple meanings?

13 A It could be either of what I have offered in my
14 analysis.

15 Q When you do transcriptions of wiretaps, are you
16 only given the information -- in other words, are you
17 only given the recording, and then you just send back
18 your work product, or is there any more interaction
19 with whomever you are translating for?

20 A The way it normally works is I receive an audio
21 file from the government website that I download. I
22 will take that file, and I usually do not work alone on
23 these projects. I have other certified interpreters
24 and specialists that work with me. A transcription
25 will be made first of the audio. That transcription

Benningfield - Voir Dire

1 will be reviewed by another member of the team and
2 verified. And once it's verified, in this particular
3 case, I personally did all of the English translation
4 for all of the Spanish language columns that you have.

5 Q But as far as any information that you received
6 from your customer, we'll say, is it just the audio
7 file?

8 A Yes, generally speaking.

9 MR. MURPHY: At this point, the government
10 would object. Counsel has asked to *voir dire* the
11 witness concerning his expertise for which he's been
12 offered, which is to translate from --

13 THE COURT: I understand.

14 MR. MURPHY: -- the Spanish to English
15 language. These questions are not directed towards
16 that, Your Honor.

17 THE COURT: All right. I'll let you do a
18 little more on this. It is getting to the merits, I
19 think, of what you want to do.

20 MR. KRISCHER: Thank you, Judge.

21 BY MR. KRISCHER:

22 Q My last question would be: You're court
23 certified, but you are a private translator?

24 A I work with both. I do some work in the courts.
25 I also do quite a bit of private work as well. I work

Benningfield - Direct

1 for the federal public defender, for attorneys
2 appointed under the Criminal Justice Act. I work for
3 private entities, commercial organizations. I do a
4 wide variety of work.

5 MR. KRISCHER: Thank you, sir. I have no
6 further questions for *voir dire*.

7 THE WITNESS: All right. Thank you, sir.

8 THE COURT: Is there any objection to
9 Mr. Benningfield's qualifications?

10 MR. KRISCHER: No, Judge.

11 THE COURT: All right. The Court is going to
12 recognize Mr. Benningfield is qualified as a Spanish to
13 English and English to Spanish translator.

14 Ladies and gentlemen, as I indicated earlier
15 with an earlier witness, I'm qualifying this witness
16 because of his specialized experience and knowledge.
17 To the extent there are any factual issues as to any
18 specific translations, you will be the ultimate decider
19 of the facts based on the evidence that's presented.

20 FURTHER DIRECT EXAMINATION

21 BY MR. MURPHY:

22 Q Mr. Benningfield, were you hired by the government
23 to provide transcripts and translation services in this
24 particular case?

25 A I was.

Benningfield - Direct

1 Q What specifically were you asked to do?

2 A I was asked to render a number of services, which
3 included analyzing audio files, providing a
4 word-for-word Spanish transcription of those audio
5 files, and then providing an English translation of the
6 transcription.

7 I was also requested to analyze a number of text
8 messages or written messages and provide an English
9 translation of those written messages. I think that's
10 the bulk of what I was requested to do.

11 Q Can you please explain to the jury the process
12 that you use to prepare a Spanish to English
13 transcript?

14 A Yes. So upon reception of an audio file, a
15 recording, that recording is loaded into the computer.
16 We will generally listen to the entire recording. As a
17 matter of fact, if it's multiple recordings, we will
18 try to put the recordings in chronological order.
19 That's the way they are time-stamped, we are usually
20 able to do that. And as we listen, we're able to try
21 to build a chronology and an understanding of context
22 within what we're given.

23 It's common in this type of work for translators
24 and interpreters and transcribers to work in teams. So
25 on this particular assignment, I worked with a team,

Benningfield - Direct

1 another court certified interpreter in Arizona. He
2 would listen to the audio recording. He would prepare
3 a draft transcription and send me the draft
4 transcription. I would listen to the draft
5 transcription carefully and compare what I'm hearing on
6 the audio with his transcription and decide if there's
7 any corrections or any additions or anything that needs
8 to be finalized in the left-hand column, the Spanish
9 column.

10 Once that's done, I go back with the audio again,
11 once again, with my headsets on because this is
12 performed at a computer with headsets on. I have a
13 foot pedal that allows me to turn the audio on and off.
14 My hands are free on the keyboard.

15 As I listen to the audio, I'm also reading the
16 Spanish transcription. And I do that because when I
17 listen to the audio, I understand what's being said.
18 But also, as I read the transcription, I have in
19 written format before me also what was being said.
20 It's a way of, once again, verifying that left-hand
21 Spanish column, and it's also a way of assuring that's
22 what being written down in the right-hand English
23 column fits not only with what's on the written page in
24 black and white but also with the information of what
25 speakers are saying as they speak. Because sometimes

Benningfield - Direct

1 what you simply see in black and white is complemented
2 with what you hear on the audio. And so the English
3 column is prepared in that fashion.

4 Once it's prepared, I go back once again and
5 review the document to assure accuracy of the document,
6 of the transcription and translation.

7 That's how the transcriptions were prepared.

8 Q Thank you.

9 Now, were you familiar with any of the individuals
10 on the recordings or documents you received before you
11 began your transcriptions and translations?

12 A No. I still don't know any participants today.

13 Q Prior to beginning your work to translate or
14 transcribe information that you were provided in this
15 case, did you receive a debrief from the case agents or
16 the prosecutors involved in the case or anyone else
17 regarding the specific details of the case?

18 A No.

19 Q Now, what did you receive in physical form in
20 order to begin your work?

21 A Well, I don't think I received anything in
22 physical form. I received digital materials on the
23 website, and I downloaded those from the website and
24 began working on it.

25 Q What digital materials did you receive?

Benningfield - Direct

1 A Audio recordings of intercepted telephone
2 conversations, text messages, Facebook messages,
3 Telegram messages, communications of other sorts.

4 Q Okay. Have you ever seen the Indictment in this
5 case?

6 A I never have.

7 Q Do you know what the charges are against the
8 defendants in this case?

9 A I don't.

10 Q Do you believe that the transcripts that you
11 prepared accurately reflect the utterances that are
12 heard on the recordings and the statements that were
13 written in the documents that you received?

14 A I do.

15 Q Approximately how many hours did it take you and
16 the others that you were working with to prepare the
17 transcripts for this case?

18 A I just added that up last week, the actual
19 numbers. We have spent more than 1,200 hours preparing
20 this information.

21 Q How many of those hours were spent transcribing
22 audio and video recordings?

23 A That part I didn't break down. Maybe close to
24 half of that.

25 Q Okay. And what is your hourly fee to do that

Benningfield - Direct

1 work?

2 A I normally charge \$190 an hour for this type of an
3 assignment. I do a lot of different type of work
4 assignments. And so my professional fees can vary
5 depending on the skill sets that are necessary
6 according to the work assignments I'm given and asked
7 to do. But for this type of work, I normally charge
8 \$190 an hour. However, due to the volume of materials
9 in this case, I agreed to work at a reduced
10 professional fee of \$120 an hour, which I don't believe
11 I'll be agreeing to again, but I did in this case.

12 Q We appreciate that.

13 With respect to just the audio and video
14 recordings in this case, did you personally identify
15 the voices on the transcripts?

16 A No.

17 Q Do you know whether excerpts of Spanish language
18 and audio and video recordings and documents have been
19 marked as evidence in this case?

20 A I believe they have.

21 Q Does each Spanish language audio and video
22 recording and document that has been marked as an
23 exhibit in this case have a corresponding transcript
24 that was prepared by you if it was a Spanish language
25 audio, video, or document?

Benningfield - Direct

1 A Yes.

2 Q Generally speaking, how have these transcripts
3 that you have prepared been marked?

4 A To be honest with you, I'm not sure how they're
5 marked. I don't know the exact marking system that the
6 U.S. Attorney's Office is using.

7 Q Have you verified the transcripts that you
8 prepared in this case from the audio and video
9 recordings that you received in this case are, in fact,
10 accurate and complete with respect to the information
11 and materials that you received?

12 A Yes, that I have done.

13 Q All right. Now, I'd like for you to look at
14 what's been marked as Government's Exhibit 18-1 to
15 18-30A.

16 A What are those numbers again?

17 Q 18-1A to 18-30A.

18 A Okay. I'm on 18-1A. I'm going through them all.
19 I'm on 18-6 now. Do you want me to look at each page
20 of these 18 series?

21 Q I just would like for you to familiarize yourself
22 with Exhibits 18-1A to 18-30A. Once you do, can you
23 let the jury know whether or not those are transcripts
24 and exhibits that you prepared in this case.

25 A Yes. I see my initials on the last page of each

Benningfield - Direct

1 exhibit.

2 Q And what do those initials that you see there
3 reflect?

4 A My initials, J.B. Which I see other initials J.B.
5 with a date on them, but those are not my initials, the
6 block letter J.B. But the cursive letter star J.B. are
7 my initials, and those reflect my initials that I've
8 reviewed these very articles of exhibits.

9 Q Okay. And, Mr. Benningfield, if you could, please
10 look now at what's been marked as Government's
11 Exhibit 19-1A through 19-16A. If you could, also
12 review those exhibits and let the jury know whether or
13 not those are transcripts and materials that you
14 prepared in this case.

15 A So 19-1A through?

16 Q To 19-16A.

17 A Okay. I see here 19-1A through 19-14A.

18 Q Did you prepare the exhibits in 19-1A to 19-14A?

19 A It appears that -- I do see my initials on the
20 last page of what I'm looking at, yes.

21 Q Do those initials indicate that you reviewed those
22 transcripts as accurate?

23 A Yes.

24 Q And if I can have you now look at what's been
25 marked as Government's Exhibit 20-2B and 20-3B.

Benningfield - Direct

1 THE COURT: I'm sorry. What's the exhibit
2 number?

3 MR. MURPHY: 20-2B and 20-3B.

4 A Exhibit 20-2B, yes, has my initials. That's
5 correct.

6 Q And so does 20-3B?

7 A Yes.

8 Q Are those both exhibits that you prepared as
9 transcripts in this case?

10 A They are.

11 Q And, Mr. Benningfield, if I can have you look at
12 what's been marked as 21-3B, 21-4B, and 21-5B.

13 A Exhibit 21-3B, yes, that is correct. My initials
14 are there.

15 Q And 21-4B?

16 A They are there as well, yes.

17 Q And 21-5B?

18 A Yes.

19 Q Are these each transcripts that you prepared in
20 this case?

21 A They are.

22 Q If I can have you look at what's been marked as
23 22-4B, 22-5B, 22-6B, 22-7B, 22-8B, 22-9B, 22-10B,
24 22-11B, 22-12B, and 22-14B.

25 A Yes.

Benningfield - Direct

1 Q Are those each exhibits that you transcribed and
2 prepared transcripts for in this case?

3 A They are.

4 Q Do they each all reflect your initials?

5 A They do.

6 Q If I could now have you look at 23-3B and 23-4B.

7 A Yes, 23-3B -- yes, my initials are there as well.

8 Q Are those both transcripts that you prepared in
9 this case?

10 A They are.

11 Q And if I can have you look at what's been marked
12 as 25-4B, 25-5B, 25-6B, 25-7B, 25-8B, 25-9B, 25-10B,
13 25-11B, and 25-12B.

14 A Yes, I'm seeing my initials on these as well.

15 Q Is that because those were each exhibits and
16 transcripts that you prepared in this case?

17 A Yes, that's correct.

18 Q If I can have you look at 26-4B, 26-5B, 26-6B,
19 26-7B, 26-8B, 26-9B, 26-10B, 26-11B, 26-12C, 26-12D,
20 26-13B, 26-14B, 26-15B, 26-17B, 26-18B, 26-19B, and
21 26-20B.

22 THE COURT: I don't have 26-20B listed.

23 MR. MURPHY: The Court's indulgence, Your
24 Honor.

25 Excuse me, just to 26-19B.

Benningfield - Direct

1 THE COURT: All right.

2 A Yes.

3 Q Do each one of those transcripts and exhibits
4 contain your initials?

5 A They do.

6 Q Is that because those are transcripts that you
7 prepared in this case?

8 A I did.

9 Q If I can have you look at 27-3B, 27-4B, 27-5B,
10 27-6B, 27-7B, 27-8B, 27-9B, 27-10B, 27-11B, 27-12B, and
11 27-13B.

12 THE COURT: You said to 13?

13 MR. MURPHY: Correct.

14 A Yes.

15 Q Do each of those contain your initials?

16 A They do.

17 Q Is that because those are transcripts that you
18 prepared as evidence in this case?

19 A They are.

20 Q If I can have you now look at 28-3B, 28-4B, 28-5B,
21 28-7B, 28-8B, 28-9B, and 28-10B.

22 A You said 28-9B?

23 Q Yes, 28-9B.

24 A I see 9B here, but I don't see my initials on it.

25 Q What about 28-10B?

Benningfield - Direct

1 A I also see it here, but I don't see my initials.
2 I do recognize the documents, though, as work that I
3 have done.

4 MR. MURPHY: The Court's brief indulgence.

5 BY MR. MURPHY:

6 Q With respect to 28-9B and 28-10B, are those
7 exhibits that you prepared?

8 A They certainly appear to be, yes.

9 Q If you can, please take a brief moment to review
10 28-9B and 28-10B and confirm whether or not those are
11 exhibits that you prepared in this case.

12 A 9B is, and 10B is as well.

13 Q Have you looked at 28-9B and 28-10B? Do you have
14 any corrections or changes that you believe need to be
15 made to either exhibit based on your review of those
16 exhibits?

17 A I don't.

18 Q Looking at 29-3B --

19 A My initials are on them, yes.

20 Q Is that because that's an exhibit that you
21 prepared as a transcript in this case?

22 A Yes.

23 Q Looking at 30-1B --

24 A Yes. Yes, my initials are on 30-1B.

25 Q Because that's a transcript that you prepared as

Benningfield - Direct

1 an exhibit in this case?

2 A Yes.

3 Q Looking at 31-2B --

4 A Yes.

5 Q Do your initials appear on that exhibit?

6 A They are.

7 Q Is that because this is a transcript that you
8 prepared as an exhibit in this case?

9 A This was not a transcript. This was a translation
10 of a letter that had been written in Spanish. This is
11 not a transcript. It's a translation.

12 Q Thank you for the clarification.

13 Looking at 37-10B and 37-11B --

14 A 37-10B, I'm there. Yes, my initials are on it.

15 And what was the other one?

16 Q 37-11B.

17 A Yes.

18 Q Do your initials appear on both of those exhibits?

19 A They do.

20 Q Is that because those are exhibits that you
21 prepared as evidence in this case?

22 A Yes.

23 Q Looking at 38-B1 and 38-B2 -- excuse me, 38-8B1
24 and 38-8B2.

25 A So I have 38-8B1 in front of me right now. I

Benningfield - Direct

1 apparently checked this one twice because my initials
2 are on it twice.

3 Q What about 38-8B2?

4 A The same thing. My initials are on it twice.

5 Q Is that because those are exhibits that you
6 prepared as evidence in this case?

7 A Yes.

8 Q Looking at 38-9A to 38-15A --

9 A Yes. Yes, my initials are on each one of those.

10 Q Is that because those are exhibits that you
11 prepared as evidence in this case?

12 A That's correct.

13 Q Looking at 39-7B --

14 MR. CONTE: What was that again?

15 MR. MURPHY: 39-7B.

16 A I don't know if I have a 39-7B in front of me.

17 Oh, okay. I have 39.

18 Q 39-7B?

19 A Okay, I'm sorry.

20 Q No worries. Take your time.

21 A Yes, my initials are there.

22 Q Is that because that's a transcript that you
23 prepared as an exhibit in this trial?

24 A It's a translation. Once again, there's nothing
25 transcribed here, but there was a translation here,

Benningfield - Direct

1 yes.

2 Q Of WhatsApp messages?

3 A Yes.

4 Q Looking at 41-10B, 41-11B, 41-12B --

5 A 41-10B does have my initials, yes. 41-11B, yes.

6 Q What about 41-12B?

7 A Yes.

8 Q Those all contain your initials?

9 A They do.

10 Q That's because each contains translations that you
11 prepared as evidence in this case?

12 A Yes. These are translations, not transcriptions.
13 That's correct.

14 Q Looking at 42-11B, 42-12B, and 42-14A to 42-14C --

15 A I'm sorry. Let me catch up with you. So what was
16 the first number?

17 Q Sure, 42-11B, 42-12B, and 42-14A to 42-14C.

18 A 42-11B, yes.

19 What was the next one after 11B?

20 Q 42-11B, 42-12B.

21 A Okay, 12B. I have a 42-12B in front of me, but
22 this particular one does not have my initials on it.

23 Q Can you take a moment to review it, and can you
24 confirm whether or not that's an exhibit that you
25 prepared as evidence in this case?

Benningfield - Direct

1 A Certainly. It's a long document. From what I'm
2 seeing, yes, everything appears to be work that I
3 rendered.

4 Q Take your time and take a look at it.

5 A All right.

6 Yes, sir.

7 Q Is that a translation of WhatsApp messages that
8 you prepared as evidence in this case?

9 A It is.

10 Q Having reviewed that document, were there any
11 errors or corrections that you noted needed to be
12 changed with respect to those translations?

13 A Not that I've seen.

14 Q And looking at what's been marked as 42-14A,
15 42-14B, and 42-14C --

16 A Okay, 42-14C. Where was this? No. That was B.
17 Let me look at C. Yes, 14C is my work.

18 Q What about 42-14A and 42-14B?

19 A Yes, they were as well.

20 Q Do your initials appear on those documents?

21 A They didn't appear on B. I can put them on B if
22 you want.

23 Q Do they appear on A and C?

24 A They do on A and C, yes.

25 Q If you can, look at 42-14B, and can you confirm

Benningfield - Direct

1 that that is a document that you prepared as an exhibit
2 in this case?

3 A Your question?

4 Q Is that a document you prepared as an exhibit in
5 this case?

6 A The 42-14B?

7 Q 42-14B, correct.

8 A It is.

9 Q Having looked at that document, are there any
10 corrections or changes that you need to make to that
11 document?

12 A Not that I'm aware of.

13 Q Okay. And if I can now have you look at what's
14 been marked as Government's Exhibit 43-8B, 43-9B,
15 43-13D, 43-13E, and 43-13F.

16 A Okay. 43-8B, yes, that's my work.

17 Q And 43-9B?

18 A Yes.

19 Q Do your initials appear on both of those
20 documents?

21 A They do.

22 Q Is that because you prepared both of those
23 documents as evidence in this case?

24 A Yes, that's correct.

25 Q And if you can, look at 43-13D, 43-13E, and

Benningfield - Direct

1 43-13F.

2 A Yes, 43-13D and 43-13E and 43-13F contain my
3 initials.

4 Q Is that because you prepared each of those
5 documents as translation exhibits in this case?

6 A Yes, that's correct.

7 Q And, Mr. Benningfield, if you can, look at 43-17.

8 A Okay, I have it. Yes, it has my initials.

9 Q Is that because this is a translation exhibit that
10 you prepared as evidence in this case?

11 A That's correct.

12 Q Mr. Benningfield, if I can have you look at what's
13 been marked as 44-9A to 44-9E.

14 A 44-9A has my initials because I prepared this
15 document, 9B as well, and 44-9C and 44-9D as well.

16 Q What about 44-9E?

17 A Yes, the same.

18 Q Is that because you prepared each of those
19 exhibits as translation exhibits in this case?

20 A That's correct.

21 Q And, Mr. Benningfield, if I can have you look at
22 44-5A, 44-5B -- excuse me -- 45-5A, 45-5B, and 45-5C.

23 A All right. You might have to give me those
24 numbers one at a time, though, so I can make sure I'm
25 with you. So 45-5A was your first one?

Benningfield - Direct

1 Q Yes.

2 A 44-5A is here. My initials are not on it, but it
3 certainly appears to be work that I rendered.

4 Q Is that 45-5A?

5 A Yes, 45-5A.

6 Q You said your initials do or do not appear on that
7 document?

8 A My initials do not appear on 45, not the copy that
9 I'm looking at. I recognize the document from working
10 on it, but on this particular copy, I don't see my
11 initials on it. I can initial it if that will help.

12 Q Can you review that document and please let the
13 Court know if there are any changes or additions that
14 you believe need to be made to that document?

15 A Yeah. I don't see any errors.

16 Q What about 45-5B? Do your initials appear on that
17 document?

18 A Yes, they do.

19 Q What about 45-5C? Do your initials appear on that
20 document?

21 A They do not.

22 Q Can you please take a moment to review that
23 document and please let the Court know if that's a
24 document you prepared as an exhibit in this case?

25 A It is.

Benningfield - Direct

1 Q Can you take a look at that document and let the
2 Court know if there are any changes or additions that
3 you believe need to be made to the translation on that
4 document?

5 A I believe it's in correct order.

6 Q Looking at 45-6B --

7 A I see 45-6B, and I recognize the document. This
8 particular copy that I have in front of me, I don't see
9 my initials.

10 Q Is that a document that you prepared as evidence
11 in this case?

12 A Yes, it is.

13 Q Can you take a look at that document and let the
14 Court know whether or not there are any changes or
15 revisions that you believe need to be made to the
16 translations in that document?

17 A Everything looks to be in good order.

18 Q Mr. Benningfield, looking at 46-2B and 46-3B --

19 A 46-2B is a document I recognize. On this
20 particular copy, I don't see my initials. I do
21 remember initialing my work on this document, though.

22 Q Is that a document that you prepared as an exhibit
23 in this case?

24 A It is.

25 Q Do you observe any revisions or changes to the

Benningfield - Direct

1 translations that need to be made?

2 A I don't see anything that's been altered. Okay.

3 Q What about 46-3B?

4 A This document does have my initials, yes.

5 Q Is that because that's an exhibit that you
6 prepared translations for in this case?

7 A That's correct.

8 Q And looking at 47-3 --

9 A 47?

10 Q Dash 3.

11 A Dash 3, okay. Yes, it has my initials.

12 Q Is that because that's a translation that you
13 prepared as an exhibit in this case?

14 A It is.

15 Q And looking at 48-2A and 48-3A --

16 A And just -- 47-3 is actually a transcription, not
17 a translation. So the next one?

18 Q 48-2A and 48-3A.

19 A 2A and 3A, okay. 2A has my initials, yes. That's
20 48-2A. And 48-3A, yes.

21 Q Does that contain your initials?

22 A It does.

23 Q Is that because those are both exhibits that you
24 prepared as evidence in this case?

25 A That's correct.

Benningfield - Direct

1 Q If I can have you now look at 51-1B.

2 A Yes.

3 Q Does that exhibit contain your initials?

4 A It does.

5 Q Is that because that's a translation and
6 transcript that you prepared as an exhibit in this
7 case?

8 A Yes, that's correct.

9 Q If I can now have you look at 62-7B. Excuse me.
10 Before we change binders, can I actually have you look
11 at 52-1B?

12 A Sure. 52-1B?

13 Q Yes.

14 A Yes, it contains my initials.

15 Q Is that because that's a transcript and
16 translation that you prepared as an exhibit in this
17 case?

18 A It is, sir.

19 Q Now if I can have you look at 62-7B.

20 A Yes.

21 Q Does that exhibit contain your initials?

22 A It does.

23 Q Is that because that exhibit is a translation that
24 you prepared of WhatsApp messages as evidence in this
25 case?

Benningfield - Direct

1 A That's correct.

2 Q Now, Mr. Benningfield, when did you finalize the
3 transcripts in this case?

4 A Well, I've been working on it for about a year. I
5 have continued to review this material pretty much -- I
6 guess up to coming in here today.

7 Q Okay. Now, when you reviewed those transcripts,
8 if you found any errors in them, what did you do?

9 A If I find an error, I make it known. If I become
10 aware of an error -- sometimes because of context, an
11 error can happen. You can be working on something and
12 understand context to mean something. As you work
13 through a case, your context develops more and more.
14 That context that I understood has now been developed
15 now more, and what I understood is not exactly what I
16 thought it was. Then a modification needs to go here.

17 Q Did you correct those errors?

18 A Certainly, I would.

19 Q How did you correct those errors?

20 A I would make a change in the transcription. If a
21 change is made, I would bring it to the U.S. Attorney's
22 Office's attention.

23 Q Now, with respect to each and every exhibit number
24 that we just discussed here this afternoon, do those
25 transcripts accurately reflect the utterances that were

Benningfield - Direct

1 made by the speakers on the corresponding recordings in
2 Spanish or that were written in the original source
3 material that you received?

4 A Yes.

5 Q Now, with respect to each and every exhibit that
6 we just went through, do the transcripts reflect an
7 accurate translation of what was said by the speakers
8 or written in the Spanish original source document?

9 A They do.

10 Q And did you receive Title 3 wiretap audios in this
11 case to translate from Spanish to English?

12 A I did.

13 Q And do your transcripts for the Title 3 wiretap
14 audios contain or identify a file source?

15 A They do.

16 Q What does the file source refer to?

17 A Well, it refers to the number of the file. So the
18 way I receive these files loaded into a government
19 website, I'll go into that website, download the files,
20 and those files will have a serial number that will
21 usually identify -- they are identifying numbers that
22 identify date and time stamps and serial numbers. And
23 so when the transcript is prepared, that particular
24 serial number of that recording is used for that
25 transcript.

Benningfield - Direct

1 Q And where does the file source appear on the
2 transcripts that you prepared in this case?

3 A Typically, normally, they will appear at the
4 beginning at the top of each transcription.

5 Q Did you change any of the file source names in the
6 material that was given to you?

7 A No, sir.

8 Q And why did you include the file source
9 information on the transcripts?

10 A For identifying purposes. We actually have to do
11 that in our office. Because for us to know what we're
12 working on, we want to be able to refer to the actual
13 source, the audio source. We want all of the documents
14 to be tagged to the correct source.

15 Q Do some of the recordings and documents that you
16 translated in this case contain slang terms or Spanish
17 words that have various meanings?

18 A Yeah. I don't know what people always mean when
19 they say slang. The way I view and probably most
20 professional interpreters and translators view spoken
21 speech is simply communication. We don't necessarily
22 think of it as slang. It's just people are
23 communicating, and our focus is on what are they
24 saying. So yes, there are a variety of ways many
25 concepts are expressed through different speakers.

Benningfield - Direct

1 Q Now, when you encounter a situation in which a
2 word or term has various meanings, can you explain to
3 the jury how it is that you determine which specific
4 meaning to attribute to that word in your transcripts?

5 A Once again, the way we do our work is this: We
6 listen to what's in an audio recording or we read
7 carefully what's on the written page. When you listen
8 to spoken language, you can usually get a basic idea of
9 the region from where that spoken source is coming
10 from.

11 For example, when you listen to people from New
12 Jersey, you hear a New Jersey accent. When you listen
13 to people from Texas, you hear a Texas accent. When
14 you listen to people from South Carolina, you hear that
15 southern accent. And you can kind of get a basic idea
16 of where people are from; although, they all speak
17 English. When you hear people from Australia, you can
18 still hear that Australian accent. It's still English.

19 Spanish is the same way. Spanish is spoken all
20 over the world. And you can usually listen to it, and
21 you can identify a basic region from where that Spanish
22 is from, whether it's from Iberian Peninsula, Spain, if
23 it's from Equatorial Guinea in Africa. If it's from
24 Central America, it has a certain sound to it. It's
25 usually spoken in *bozal*. It usually uses *voseo* as the

Benningfield - Direct

1 form of address instead of *tu*.

2 (Reporter clarification.)

3 A *Voseo* is V-O-S-E-O. That's a style of address.

4 So *voseo* is the pronoun that's usually used for --

5 V-O-S is the pronoun that's used with it.

6 Mexican Spanish has its sound, and even within the
7 nation of Mexico, the northern Mexicans sound a little
8 different than the southern Mexicans. They all have
9 their own sound. Argentina has its sound. Most
10 countries have their sound. You can kind of listen,
11 and you can identify a basic region from where that
12 spoken language is from. In Spanish, definitely so.
13 Cuba has its sound. The Caribbean has its sound, and
14 you can identify these sounds.

15 So once we identify the basic idea of where that
16 language is from, that also gives us a whole source of
17 reference of typical linguistic style of speech and
18 typical words that are used in communication for that
19 region and the way people tend to utilize the Spanish
20 language in that region.

21 So I can't necessarily expect for people from
22 El Salvador or Honduras to sound like people from Cuba.
23 They don't even use the same vocabulary for everything.
24 They have different vocabulary sets a lot of times for
25 things they want to describe.

Benningfield - Direct

1 We bear that all in mind. We don't enter this
2 work blindly and dumbly think, If it says this, then
3 it's got to be that. No. Our focus is on what are
4 people saying when they use expressions. And after
5 working in this work for 30 years, you start to
6 identify and know typical common expressions of certain
7 regionalistic expressions and the way people tend to
8 talk in those regions.

9 So when we listen to the recorded material, we
10 typically are able to identify the basic region. That
11 sets off a whole number of cues that we know the type
12 of vocabulary that typically is used for those
13 speakers, and we understand what they're saying when
14 they speak.

15 And then when we understand what they're saying,
16 we write that down in English so that any English trier
17 of fact can read it as well. And our objective -- the
18 theory behind good translation is that the trier of
19 fact will walk away from the experience with the exact
20 same mental and emotional impact had there not been a
21 need for the translator to begin with. That's our
22 objective. That's the theory behind good translation,
23 and that's what we try to do.

24 Q Now, are you familiar with slang terms that are
25 used by Central American gangs?

Benningfield - Direct

1 A Yes.

2 Q How so?

3 A I started working with translational gang
4 communication around 2002. So approximately 20 years
5 I've been working with specifically -- mostly with
6 MS-13 and 18th Street gangs for about 20 years. So
7 especially for many years I did a lot of work with
8 attorneys appointed under the Criminal Justice Act and
9 would spend many days in the jails talking to gang
10 members. After many, many days of speaking with them,
11 interviewing them with their attorneys and sometimes
12 with the federal public defenders, that communication
13 and style of speech is very well understood after
14 interviews.

15 There was a time in my life where I said, I'm
16 going to spend my whole adult life in jail, you know,
17 in the jails interviewing and talking with these folks.
18 I did spend many years doing that, yes.

19 Q Despite the experience that you just relayed, did
20 you at times find it challenging in this case to
21 translate some of the conversations concerning gang
22 interactions?

23 A There's always a challenge. In all work
24 assignments, there's a challenge. So yes.

25 Q Why was it challenging?

Benningfield - Direct

1 A Well, what I'm provided with is a snapshot a lot
2 of times. If I get a recording, it's basically a
3 snapshot of something that's said, and I have a limited
4 context. I have the four corners, so to speak, of the
5 page or the recording that I'm getting. I don't have
6 knowledge of what was before that or what was after
7 that. I do have knowledge of all the recordings I'm
8 given. I can try to lay them out in chronological
9 order and develop a context, but I'm not living in the
10 moment with the folks that are doing the communication.

11 So I must observe and make a conclusion based on
12 the context that I'm given, and context affects our
13 communications. As we speak here and we're all in the
14 same room, we understand the concept. We understand
15 what's going on. So when I speak, you realize those
16 factors are also playing in your decision as to what
17 I'm saying.

18 I don't have that luxury when I'm given a
19 recording. I just have the recording sometimes a year
20 or two after it was stated. So my context is limited,
21 and I have to base my decision based on what I have
22 within the context that I'm given. That's why it's a
23 challenge sometimes.

24 Q Mr. Benningfield, I would like for you to look at
25 what's been marked for identification as Government

Benningfield - Direct

1 Exhibit 18-25A.

2 A What number was that?

3 Q 18-25A.

4 A Almost there. All right. I have it.

5 Q Do your initials appear in two places on this
6 exhibit?

7 A Yes, they appear on the next-to-the-last page on
8 Entry No. 60 and on the last page under Entry 61.

9 Q And that's because that's an exhibit you prepared
10 as evidence in this trial?

11 A That's correct.

12 Q Do you recognize this document?

13 A I do.

14 Q Is this a Title 3 audio conversation between two
15 individuals?

16 A It is.

17 Q Okay. Now, I'd like for you to look at Box 11 of
18 this exhibit. Do you see that?

19 A Okay.

20 Q It goes from the first page to the second page.

21 A Yes.

22 Q There's a term in that exhibit "son," S-O-N, that
23 you translated in this exhibit. Do you see that?

24 A I do.

25 Q What does the word *son*, S-O-N, mean in English?

Benningfield - Direct

1 A Do you want all possible meanings? Because it can
2 be a noun. It can also be a verb. Do you want to just
3 limit to what's here?

4 Q Let me ask you this. In this particular context
5 in this conversation, is that word being used as a noun
6 or a verb?

7 A It's being used as a verb.

8 Q What are the translations for the word "*son*,"
9 S-O-N, as used as a verb?

10 A Okay. *Son* is conjugation of the verb *say*.

11 So to help you understand this, *ser* --

12 (Reporter clarification.)

13 A Thank you, and I'm sorry.

14 *Ser*, S-E-R. So *ser* is the same as in English to
15 be, T-O, B-E. And with all verbs -- or we frequently
16 tend to conjugate them. If we don't remember what
17 conjugation was, conjugating is simply assigning a verb
18 concept from its infinitive form to a person and a
19 time. So when we conjugate a verb, we will add a
20 pronoun, and we'll also make a time. It's called a
21 tense. We have, for example, present tense, past
22 tense, future tense, etc. *Son* here is the conjugation
23 of the Spanish verb *ser*, which is to be.

24 And in Spanish, when verbs are conjugated,
25 pronouns are not always included because the pronoun is

Benningfield - Direct

1 incorporated into the word as it's used. There are
2 some exceptions to this, however. When we use second
3 person and third person pronouns, they're not always
4 used and the verb is sometime the same in Spanish.

5 So Spanish relies on context. It relies on
6 familiarity between the people and the dialogue knowing
7 their subject matter to make a conclusion. It's
8 understood or implied as to who the pronoun was.

9 When we talk about pronouns, we're talking about
10 words like I, you, she, or he. Those are all pronouns,
11 and they assign action to verbs. The pronouns can be
12 singular, or they can be plural. So if we take them
13 from the singular and put them into plural, we have
14 "we." That's first person plural. We have "you guys,"
15 you plural. That's second person plural. We have
16 "they." That's third person plural.

17 Son is a conjugation that will apply to both
18 second person, "you guys," and will also apply to third
19 person, "they."

20 Does that help respond to what son can be? It can
21 be second person, "you guys," or it can be third
22 person, "they," as the pronoun that would be used.
23 English uses pronouns. Spanish doesn't always.

24 Q That's very helpful.

25 Can you explain what pronoun you assigned to the

Benningfield - Direct

1 word son in this context?

2 A I assigned the word "they," the pronoun "they."

3 Q Why did you assign the word "they" to the pronoun
4 son in this context?

5 A Because as I continued to read through and analyze
6 the conversation, you notice in Entry No. 11 you have a
7 person identified as Tovar.

8 (Reporter clarification.)

9 A Tovar, T-O-V-A-R. That makes this statement
10 that's made in Entry No. 11. In Entry 12, you have a
11 person --

12 MR. OATES: Objection, Judge.

13 THE COURT: I'm sorry?

14 MR. KRISCHER: May we approach?

15 MR. MURPHY: Your Honor --

16 Q Can you respond to the question without
17 identifying the individuals listed on the documents?

18 A Sure. So your question was why did you assign the
19 third person plural? Basically, because of this: If
20 you follow through, son comes up again. It's tagged to
21 a group of people in fairly close proximity. Actually,
22 it comes up again in Entry No. 21. You will see in
23 Entry No. 21 on the Spanish side -- should I read the
24 Spanish?

25 Okay. I'll just read it in English. The English

Benningfield - Direct

1 side says, "Better not come saying now that they're
2 friends, that they're your friends."

3 Now, "your," once again, is a pronoun, and it's a
4 possessive pronoun. It's second person singular, and
5 second person singular does not omit second person
6 plural at the same time. This pronoun helps identify
7 who son is. Son is third person plural.

8 And as you follow on down, the pronouns continue
9 to identify more clearly. On Entry No. 27, there is,
10 "You threaten them too. Tell them...." The "them" is
11 very clearly -- and if you want to know what pronoun
12 that comes from, if you look at the second word on the
13 Spanish side that ends in L-O-S, that L-O-S is a
14 pronoun, and it's third person plural. The pronouns of
15 the conversation always direct -- and even when son
16 comes back up, it clearly indicates third person
17 plural.

18 So as a translator, what I have to do is, once
19 again, look at context and make a determination.
20 According to context and proximity of what was being
21 stated here, are the pronouns tagged to a second person
22 or a third? In this case, at least on the face of this
23 document, they're tagged to third person plural, and
24 that's why I chose to use.

25 Q Did you also review the audio to make that

Benningfield - Cross

1 contextual decision?

2 A I did.

3 MR. MURPHY: No further questions for the
4 witness at this time, Your Honor.

5 THE COURT: All right. Any cross? Who wants
6 to go?

7 MR. WALSH: I'll go.

8 THE COURT: All right.

9 CROSS-EXAMINATION

10 BY MR. WALSH:

11 Q Good afternoon, Mr. Benningfield.

12 A Good afternoon, sir.

13 Q So you were a -- you testified as a professional
14 or an expert, right?

15 A I have.

16 Q How many? Numerous times did you say?

17 A I don't know if I would call it numerous. So 15
18 or 20 times.

19 Q And you testified in those 15 to 20 times for the
20 government, correct?

21 A Excuse me?

22 Q Let me say it this way: Have you ever testified
23 for the defense?

24 A I believe I have.

25 Q Do you know when?

Benningfield - Cross

1 A Well, I've been testifying for almost 30 years.

2 So I can't tell you exactly when. That would be pretty
3 good. But I'll just say this: I've rendered a lot of
4 opinions. I've been asked to render an opinion.

5 Q I mean testify in court.

6 A That's what I'm saying, in court. I'm saying in
7 court. I've been asked to testify rendering an opinion
8 in court at least 15 or 20 times. How many times for
9 defense attorneys? I don't know.

10 Q It's safe to say it's usually for the government?

11 A In more recent years, I would say yes. In prior
12 years, I wouldn't necessarily make that conclusion.

13 Q And you're paid by the government, correct?

14 A I am.

15 Q I've got to ask you a question here. Some of the
16 exhibits -- we went through those pretty quickly.

17 A Yes.

18 Q I appreciate that.

19 Some of the exhibits didn't have your initials on
20 them?

21 A That's right.

22 Q Then counsel asked you to review them to see if
23 there's any changes or revisions that need to be done,
24 correct?

25 A That's correct.

Benningfield - Cross

1 Q But if I understand correctly, you get these
2 things from a file from the government on a website,
3 correct?

4 A That's correct.

5 Q Then you download it, correct?

6 A Yes, that's correct.

7 Q So when you say there's no changes that need to be
8 made, you don't have the original?

9 A Well, there's no changes -- here's what I'm
10 saying. I'm saying I don't see any changes that need
11 to be made. I'm saying, I look at this document. I
12 recognize it. I remember working on it. From what I'm
13 reading, I don't see any changes to the work that I
14 did.

15 Q When you say changes, a typographical error or
16 something along those lines, right?

17 A I don't see anyone that's come behind me to alter
18 the work that I did. That's what I'm saying.

19 Q Well, you wouldn't know that because you don't
20 have the original file with you, correct? Well, you
21 have the original file downloaded, and then you're
22 looking at something from that and saying there's no
23 changes. But you don't have the original to compare it
24 to, correct?

25 A From what I'm looking at on the document I have, I

Benningfield - Cross

1 don't see any changes.

2 Q I wasn't very good in English, pronouns and things
3 of that nature. When you talk about regions and things
4 like that, that's subjective, correct? When I say
5 objective, in your training and your experience, you're
6 trying to -- it's not objective. It's subjective.
7 It's in whatever your interpretation is, correct?

8 A Yeah. I guess it's about as subjective as yours
9 is when you hear someone speaking and you say, oh,
10 that's a southern accent. That's subjective and not
11 subjective.

12 Q So by that subjective nature, you then try to
13 determine the region and then apply what you think the
14 context is, correct?

15 A Not the context, no. When you determine a
16 speaker's region, you have an idea of how those
17 speakers tend to speak and the vocabulary they tend to
18 use.

19 Q You agree with me that speakers move from region
20 to region, correct?

21 A Oh, of course.

22 Q They could be proficient in one region and also in
23 another region?

24 A Yeah. They don't lose proficiency just because
25 they move.

Benningfield - Cross

1 Q Right. And they don't always talk or speak in
2 that original region that you think they're from?

3 A That can happen.

4 Q So knowing that and then trying to identify a
5 region, subjectively, you're putting in what you feel
6 it is the best you can, correct?

7 A No, not what you feel it is. It's really not.
8 It's like this. When you listen to someone speak
9 English -- you're listening to me right now. If I were
10 to ask you to explain to me what I just told you, you
11 could probably do it because you have just listened to
12 me. You heard what I said, and you understand what I'm
13 saying.

14 That's the same thing when we transcribe or
15 translate. We listen to what's said. We hear what's
16 said, and we're told, Okay. Take that from Spanish and
17 put that into English. Don't add to it and don't
18 subtract from it and do an objective job. Make a
19 service here that you would want to receive also if
20 your words were being translated.

21 Q But you said you don't have the context before or
22 after?

23 A That's correct.

24 Q You've never spoken to that person before?

25 A That's correct.

Benningfield - Cross

1 Q You don't know what kind of language -- when I say
2 language, you don't know if they use proper -- I'll use
3 it in English. They might not use the proper pronoun
4 or verb or adjective, correct?

5 A Yeah. We don't think in -- I don't think in those
6 terms of proper or improper when I do --

7 Q So someone could say one word and mean another
8 word, correct?

9 A Yes. I could say the sky is green, and I actually
10 mean it's blue. I could do that.

11 Q And that could apply. While that's going on,
12 you're trying to figure out exactly what they're saying
13 when they're using slang, correct?

14 A I don't understand exactly what you're asking.
15 Here's the process. I listen to what's said. If I
16 understand what's said, I put it in English. If I
17 don't understand what's said, I can't do anything with
18 it.

19 Q Sure. And if you think you understand it, you put
20 it in English?

21 A Of course.

22 Q And that could not be correct?

23 A It could not be. Are you asking, "Are you capable
24 of making a mistake?" Sure, I'm capable of making
25 mistakes.

Benningfield - Cross

1 THE COURT: Thank you, Mr. Walsh.

2 We're going to take our afternoon recess at
3 this time. We'll take a 20-minute recess.

4 You're excused to the jury room. Please do
5 not discuss this case among yourselves during the
6 recess.

7 (The jury exits at 3:46 p.m.)

8 THE COURT: Mr. Benningfield, do not discuss
9 your testimony during the recess.

10 The Court will stand in recess.

11 (Recess from 3:47 p.m. until 4:10 p.m.)

12 (The jury is not present.)

13 THE COURT: All right. Ready to proceed.

14 Bring out the jury.

15 (The jury enters at 4:11 p.m.)

16 THE COURT: Please be seated.

17 Mr. Walsh.

18 FURTHER CROSS-EXAMINATION

19 BY MR. WALSH:

20 Q Just briefly. Mr. Benningfield, will you please
21 turn to 19-4A?

22 A Yes.

23 Q The last page -- oh --

24 A 19-4A?

25 Q Yes, please.

Benningfield - Cross

1 A Yes, sir, I have it.

2 Q All right. On its last page, I think you
3 testified those are your initials. They are different
4 from all the other ones?

5 A Yes, that's correct. Those are different.

6 Q Are they your initials?

7 A Yes, these are my initials.

8 Q It's safe to say -- just safe to say you don't
9 know who the speakers were, as Mr. Murphy said,
10 correct?

11 A Correct, sir.

12 Q You just hear two voices or three voices, and you
13 transcribe?

14 A In fact, when we transcribed this, we just
15 transcribed as Voice 1, Voice 2, Voice 3. We don't
16 know who the speakers are.

17 Q But on these document, who puts the name in then?

18 A The office, the case agents, or whoever does that
19 part is responsible for that. I'm not responsible for
20 identifying the speakers.

21 Q So the documents you looked at, they have names on
22 them?

23 A Yes, that's correct.

24 Q You did not put those names there?

25 A No, I don't put the names.

Benningfield - Cross

1 Q So the documents after you've made them or
2 produced them, they've been modified?

3 A The names have been -- so you understand how this
4 works, we prepare most of these documents in order. If
5 you'll look at the beginning of the document, I see --
6 on 19-4A, I see the name Kevin Castro.

7 Q I don't need to know that.

8 A Okay. So normally, I don't have these -- the
9 document I prepared doesn't have these names in it.

10 Q As I said, the document you prepared doesn't have
11 names, and then it's modified with names; is that
12 correct?

13 A That's correct.

14 MR. WALSH: That's all I need to know. Thank
15 you very much.

16 THE WITNESS: Thank you, sir.

17 THE COURT: Any other counsel?

18 Mr. Krischer.

19 MR. KRISCHER: The Court's indulgence. I'm
20 sorry.

21 CROSS-EXAMINATION

22 BY MR. KRISCHER:

23 Q Good afternoon again.

24 A Good afternoon, sir.

25 Q All right. Mr. Benningfield, if I could direct

Benningfield - Cross

1 you to Government's Exhibit 18-24A.

2 A 18-24A.

3 Q And if you would, turn to the last page of 18-24A.

4 A Yes, sir.

5 Q All right. I think you previously testified that
6 the cursive initials on that page are yours; is that
7 correct?

8 A That's correct, sir.

9 Q All right. Then underneath the chart that's on
10 there, there's some other handwriting, correct?

11 A Yes.

12 Q And that's not handwriting that you wrote?

13 A You're correct, sir. That's not my handwriting.

14 Q And that handwriting wasn't on this document at
15 the time you submitted it to the government?

16 A I don't believe it was.

17 Q Let's just talk briefly again about the names.

18 MR. KRISCHER: And I apologize to the jury
19 for talking about things they can't see.

20 BY MR. KRISCHER:

21 Q Without talking about the content, but on most of
22 these documents with these translations and
23 transcriptions, you have four columns, correct?

24 A Yes, that's correct.

25 Q All right. The heading of one is Entry Number;

Benningfield - Cross

1 two is Voice Number; three is Transcription; and four
2 is English Translation?

3 A That's correct, sir.

4 Q So when you submit this to the government, are
5 there four columns?

6 A Yes.

7 Q Okay. And then under voice, you typically use V1
8 or V2?

9 A That's exactly right.

10 Q So you send this to the government, and then the
11 government -- if it doesn't say V1 or V2 or any number,
12 if there's a name in there, that's information that was
13 altered and put in by the government?

14 A That's information the government has put in.

15 Q Okay. Again, without talking about much of the
16 content, as far as your forming the document, the file
17 source on top, that's what you put in there?

18 A Yes, that's correct.

19 Q And then the legend, that's what you put in there?

20 A That's correct, sir.

21 Q All right. And then you've got something -- an
22 explanation about pronunciation?

23 A That's correct.

24 Q And then underneath of that, if there are any
25 names, actual names, the government put those there

Benningfield - Cross

1 too?

2 A That's correct, sir.

3 Q All right. I want to talk a little bit about
4 conjugation again if we could.

5 A Sure.

6 Q Now, when we were talking about son, what you said
7 was it could be you plural, you-all?

8 A Yes.

9 Q Or they?

10 A That's correct.

11 Q What does sos mean?

12 A Sos means you.

13 (Reporter clarification.)

14 Q And that would be singular?

15 A Yes.

16 Q Okay. And so when you are transcribing, you are
17 listening to the audio?

18 A That's correct, I am.

19 Q And to the best of your ability, you put down the
20 Spanish if it's Spanish; you put down the word you
21 think you hear?

22 A That's correct.

23 Q Okay. But if you're mistaken about the word that
24 you hear, then the translation is going to be
25 necessarily incorrect?

Benningfield - Cross

1 A That's correct.

2 Q So if in the section we already talked about the
3 word was --

4 THE COURT: Which section are we talking
5 about?

6 MR. KRISCHER: Oh, I'm sorry, Judge. It's
7 Exhibit 11-25A [sic], and it's the witness' previous
8 testimony about No. 11, which travels onto the second
9 page.

10 THE COURT: All right. Hold on.

11 A The number of the exhibit you're referring to?

12 Q 18-25A.

13 THE COURT: 18-25A?

14 MR. KRISCHER: Yes.

15 A I have 18-25A, yes.

16 Q So previously on direct examination, you talked
17 about Entry 11 on 18-25A.

18 A Yes.

19 Q And specifically, you talked about why you
20 believed *son* translated as *they* and not *you* plural?

21 A That's correct.

22 Q But if the word was "*sos*," that would change the
23 translation; would it not?

24 A If the word was "*sos*," that would change it. Yes,
25 if it was, it would change it.

Benningfield - Cross

1 Q And that would be singular you?

2 A That's correct, sir.

3 Q But you listened to this, and your best guess was
4 it was son?

5 A My best guess? If you guess when I tell you yes
6 that I'm saying yes, then yes.

7 Q Okay. But you weren't there?

8 A I was there to listen to the recording. I was not
9 physically present when the folks were speaking.

10 Q Correct.

11 A But if you have the recording and you want to play
12 it, you probably will not have a doubt if you listen to
13 it. You will hear son, and you will not hear sos.

14 Q And you'd agree, though, that I'm kind of at the
15 mercy of the quality of the recording?

16 A Yes.

17 Q You also talked about -- I think we were talking
18 about slang, but let's talk about idioms.

19 A Yes.

20 Q So by that, I'm talking about when we say one
21 thing and definitely mean another.

22 A Right.

23 Q In some of those circumstances, it could mean
24 literally the words of the idiom, and other times it
25 may just be the expression. So let me give an example.

Benningfield - Cross

1 You listen to a recording, and the person says, "My
2 dogs are barking."

3 A Okay.

4 Q So it could mean literally someone's dogs are
5 barking, or some people would say it means my feet are
6 tired or I'm tired or something like that. Is that
7 fair to say? Have you ever heard that phrase before?

8 A In English, I have not.

9 Q You have not. All right. So how then would you
10 translate that into Spanish? Would you assume that it
11 was a literal: I really meant that my dogs were
12 barking?

13 A So here's what we do with idiomatic phraseology.
14 If we understand it's a common expression -- let's say
15 in English we say, "That's a horse of a different
16 color." That's an example. I cannot take those words
17 and put them in Spanish and it mean something. It
18 doesn't mean anything. But we do have another saying
19 in Spanish that means the same thing. So for idiomatic
20 expressions, we use a meaning-based translation to
21 convey, once again, the exact same mental and emotional
22 impact so that the native listener in that language
23 walks away with the same understanding.

24 Q So it's not going to be a literal translation?

25 A On idiomatic expressions, it's not always literal.

Benningfield - Cross

1 Some of them can be. Some of them cannot be and convey
2 meaning. We always have to convey meaning. And so
3 there could be a time and a source recording that you
4 may hear an idiomatic expression. And if you don't
5 understand it, you may leave it at its source, you may
6 put in an explanation of what it could be. There are
7 various ways you could handle that situation if you are
8 a translator and you don't understand the source.

9 Q And it's fair to say you're not going to recognize
10 all idioms?

11 A No.

12 Q And you're fluent in English?

13 A I hope -- well, I don't know how fluent I am
14 because I'm here on the stand. If you understand me --
15 I hope you've understood me thus far.

16 Q Good enough to be a certified court interpreter?

17 A That's correct, sir.

18 Q You're fluent in English, but you had not heard
19 the phrase or the idiom, "My dogs are barking today"?

20 A I have not.

21 Q In 30 years of translating?

22 A In 55 years of life, I have not heard that phrase.

23 Q Now you know for the next time.

24 A Okay. I appreciate it. Thanks.

25 Q Let's talk a little bit about education.

Benningfield - Cross

1 A Okay.

2 Q So I think we talked about that as well, that some
3 people -- even native speakers, if they're not
4 educated, they may conjugate things incorrectly?

5 A They could. That's possible.

6 Q So they may say you singular when they mean you
7 plural?

8 A That's possible.

9 Q And then there are other times when people just
10 get the phrase wrong. So let me give you an example.
11 For all intents and purposes or for all intensive
12 purposes. So I would suggest in both of those a person
13 means the same thing, whatever they think it means, but
14 if you were to translate word for word, it would be a
15 different translation in each case, correct?

16 A That's correct.

17 Q But you would listen to it and try to understand
18 the meaning to make sure the listener understood. And
19 so you would pick the one that was most consistent with
20 your understanding?

21 A I can only go off of what was said. That's all I
22 can go off of.

23 MR. KRISCHER: Thank you very much. I have
24 no further questions.

25 THE WITNESS: Thank you, sir. I appreciate

Benningfield - Cross

1 your work.

2 THE COURT: Any other counsel?

3 Mr. Oates?

4 MR. OATES: Yes, Your Honor.

5 CROSS-EXAMINATION

6 BY MR. OATES:

7 Q Okay. Thank you for your time today,
8 Mr. Benningfield.

9 A Yes, sir.

10 Q I have just a couple of questions about the
11 process and how you get the materials and then
12 translate it.

13 A Okay.

14 Q So you testified earlier that the government sends
15 you material through, I guess, a server or through a
16 website?

17 A That's correct.

18 Q Okay. And then what happens? So you get an email
19 notifying you there's material to translate?

20 A That's right.

21 Q Okay. And then what happens?

22 A Then I download that material, and I start working
23 on it.

24 Q Okay. I think you said earlier that you work on a
25 team with somebody. Right?

Benningfield - Cross

1 A That's correct.

2 Q Okay. Is that person -- are you guys in the same
3 office?

4 A No. He's in Arizona. I don't always work with
5 the same people. Different work assignments I may have
6 different collaborators on it. But I typically will
7 have a core of two or three or four people that I've
8 worked with over the years whose quality of work I've
9 come to appreciate and trust and will collaborate
10 frequently with -- you know, there are six or seven
11 people. Of those six or seven, I really work with
12 three or four of them.

13 Q And this person is somebody that you know and you
14 trust?

15 A Yes. I've worked with them since 2008.

16 Q Okay. And I'm going to focus first on the voice
17 recordings, you know, the wiretaps that you guys
18 translated.

19 How does that work? Who listens to the recording
20 first?

21 A Who listens at first is there's not a rule as to
22 who listens first. It can vary with every case. It
23 can even vary in the same case. So there's not a rule
24 of who listens to the recording first. I may listen to
25 a recording first. Maybe a member that works with the

Benningfield - Cross

1 team listens to the recording first.

2 In this particular case, if you want to know, many
3 of the transcripts were first -- the left-hand column,
4 a draft was prepared by Fernando, a person that works
5 with me. And so the original draft transcription of
6 the Spanish was prepared by Fernando Hurtado.

7 Q Okay. And Fernando is the person you worked with
8 in this case?

9 A Yes.

10 Q He's the person in Arizona?

11 A That's correct.

12 Q So when you first get a recording, Fernando would
13 listen to it, correct?

14 A Well --

15 Q Or sometimes would you listen to it?

16 A We may listen to it at the same time. I may be
17 listening, and I haven't even received a word from him
18 yet. And I've already listened to it and formed an
19 opinion on it. So who listens to it first? There's
20 not a rule as to who listens to something first.

21 Q Okay. So there are some times that you would
22 check Fernando's work, right, where Fernando listens to
23 something?

24 A I always check Fernando's work.

25 Q He translates it, right, and then you check to see

Benningfield - Cross

1 if the translation -- not translation -- transcribes
2 it.

3 A Correct.

4 Q So Fernando listens, transcribes it, and then
5 sends it back to you, correct?

6 A That's the way it was done on this project, yes.

7 Q And then you check the transcription?

8 A I check the transcription and also the
9 translation; that's correct.

10 Q Okay. Were there ever any instances where vice
11 versa happened, where you transcribe it -- yes, where
12 you listen, you transcribe, and then Fernando checks
13 your work on the transcription?

14 A Limited on this case, yes.

15 Q Okay. But there were some instances of that?

16 A Yes.

17 Q Whenever you're checking somebody's work, there
18 are, you know -- like anything, there are edits or
19 differences that -- or changes that you make, right?

20 A Yes.

21 Q Okay. Approximately how many times -- or, you
22 know, I know your breadth on this work has been
23 enormous. What percentage of time do you think you
24 were checking Fernando transcribed first and you
25 checked his work?

Benningfield - Cross

1 A The only part of this work that Fernando worked on
2 was the transcription -- for the most part was the
3 transcription. He did not do translation of Facebook.
4 For the most part, I think he did do a limited
5 Facebook. Most of Fernando's work, just so you'll
6 know, is transcription of the audio. And he probably
7 initially did a good 70 to 80 percent of the draft
8 transcriptions that simply come with the left-hand
9 column draft transcription.

10 Q So if Fernando did 70 to 80 percent of the drafts,
11 that means the other 20 to 30 percent you did the
12 drafts and then Fernando checked your work?

13 A Right.

14 Q Okay. And then one -- do you know -- is there a
15 way to tell, like, which of the voice transcripts --
16 which is which? Like, which one you did a first draft
17 or which one Fernando did a first draft?

18 A No, I do not keep a record of that.

19 Q Okay. And then after they would do -- and then
20 after there would be a final draft -- I guess that's
21 been drafted by either you or Fernando and then checked
22 by either you or Fernando -- you did the translation?

23 A Yes. Okay. And even once the translation is
24 done, we still go back and review the document again.

25 Q Who goes back and checks it after the translation

Benningfield - Cross

1 has been done?

2 A That would be me.

3 Q You did 100 percent of it?

4 A Yes.

5 Q And the text messages, were those all translated
6 by you?

7 A Yeah, for the most part.

8 Q But Fernando -- I think you said the Facebook
9 messages.

10 A I think he did a few Facebook pages, not that
11 many, but he did a few, I believe. That was almost a
12 year ago. I think that was some of the first part of
13 the work he did on this case, some of the early
14 Facebook messages.

15 Q Facebook stuff that was received over a year ago?

16 A About that time frame.

17 Q Okay. And for those Facebook messages, the ones
18 that he started, did you check his work?

19 A Yes, all of his documents. I checked all of them.

20 Q Okay. The phone calls that Fernando helped you
21 with, how does he get a copy of the file?

22 A I put them on a website drive, and he has access
23 to them off of the website, Dropbox basically.

24 Q Okay. So you would send them to him via Dropbox?

25 A Yes.

Benningfield - Cross

1 Q Okay. And does he have -- you mentioned that he
2 uses some software that helps you?

3 A I think he -- he doesn't use Pro Tools. He uses
4 Scribe, and I also use Scribe. For this project, I
5 think most of what we used -- we did use various
6 software applications, but most of the software we used
7 for transcription was Scribe.

8 Q What was the other one? Pro Tools?

9 A Pro Tools. Actually, it's software that was
10 developed for recording studios. It does amazing
11 analysis on sound, etc., etc. You can speed up or slow
12 down without changing the pitch of what is said. It's
13 amazing software. But most of the work -- most of the
14 software used was Scribe.

15 Q Okay. For when you use Scribe, does that come
16 with -- when you use Scribe, does that -- when you use
17 Scribe, does that -- like, what sort of functions does
18 it have to help you do it? Like, can you speed
19 something up or slow something down?

20 A You can do all of that. You load the audio file
21 into Scribe. Scribe allows you to use a foot pedal to
22 play, to rewind. You can set the settings so that when
23 you let go of the foot pedal, it rewinds 3 seconds so
24 that you pick back up. If it's a video recording,
25 which some of the materials here were video recordings,

Benningfield - Cross

1 it plays the video as well. Scribe is software that's
2 developed for transcribers.

3 Q Sure. Like, if a video or a recording is long,
4 can you cut -- can you cut parts of it out to really
5 get to the -- can you cut parts of it out or edit parts
6 of it?

7 A We don't do that. If it's long, we just work --
8 we can save our -- Scribe allows you to save your spot
9 wherever you leave off working, and you can pick back
10 up there. We don't cut the materials, no.

11 Q Does Scribe give you -- and I'm not saying that
12 you did, but does Scribe have a function that would
13 allow you to cut materials?

14 A If it does, I'm not familiar with that function.

15 Q Okay. Does the software -- I guess when you're
16 speeding it up or slowing it down, does that -- it's
17 like an alteration of the audio file, correct?

18 A It doesn't alter the file. The file is a series
19 of ones and zeros. It doesn't change those numbers.
20 Those binary numbers don't change. It simply allows
21 you to speed up the audio or slow it down. Pro Tools
22 allows you to do that without changing the pitch.
23 Scribe will change the pitch.

24 Q Scribe changes it. Okay.

25 MR. OATES: The Court's brief indulgence.

Benningfield - Cross

1 (Counsel confer.)

2 BY MR. OATES:

3 Q I think you testified earlier that for the most
4 part, you did all of the text messages, right?

5 A Yes.

6 Q Were there some text messages that Fernando did?

7 A Yes, Telegram. Some of the Telegrams he did
8 towards the end.

9 Q Okay. What percentage -- well, let me ask you
10 this: Were you guys checking one another's work when
11 you did the Telegrams?

12 A So here's what the Telegrams were. I believe the
13 government did a video of the Telegram messages, and we
14 were sent that video. You actually had to transcribe
15 from the video onto the written page what appears in
16 the Telegram message. And so that was done. And yes,
17 that was checked, and I did the translation of the
18 Spanish side.

19 Q Of the final?

20 A Yes.

21 Q And was it the same thing? Like, you did roughly
22 70 to 80 percent of the editing or the first draft --
23 no, I'm sorry. That Fernando did 70 to 80 percent of
24 the first draft, and you did -- you split it up that
25 way?

Benningfield - Cross

1 A The material I was referring to, Fernando did all
2 of the left-hand column of taking the Telegram messages
3 and putting them into the written format on the page.
4 He did all of that.

5 Q And then you translated it?

6 A Yes. I go back and verify that what appears on
7 the written page is actually what appears on the video
8 and then that the English translation is a correct
9 translation.

10 Q Okay. The software that you used, does it have
11 any ability to edit the audio file? Can you edit the
12 audio file with it? Do you know?

13 A Scribe will not edit audio files. If you wanted
14 to, you might be able to edit audio files with Pro
15 Tools. None of these files were edited if that's what
16 you're asking.

17 Q Pro Tools has an ability to edit these files?

18 A I believe Pro Tools has the ability to edit files.

19 Q Okay.

20 A I don't use it for that, but I believe that
21 function exists in the software.

22 Q Do you know whether or not that function exists in
23 Scribe?

24 A I don't believe it exists in Scribe.

25 Q Okay. Obviously, Fernando is in a different part

Benningfield - Redirect

1 of the country, right?

2 A Yes.

3 Q So you guys weren't sitting in the same room
4 together when he was doing his work?

5 A No, not at all.

6 Q Okay. Does he have Pro Tools as well?

7 A No, he does not use Pro Tools. He only uses
8 Scribe.

9 Q Okay. How do you know he doesn't use Pro Tools?

10 A I've talked to him about the application he's
11 using.

12 MR. OATES: Okay. I have no further
13 questions, Your Honor.

14 THE COURT: All right. Mr. Conte, anything?

15 MR. CONTE: No, Your Honor.

16 THE COURT: Any redirect?

17 MR. MURPHY: Yes, Your Honor.

18 REDIRECT EXAMINATION

19 BY MR. MURPHY:

20 Q Mr. Benningfield, I want to talk with you a little
21 bit -- you were asked questions about information that
22 the government added to the exhibits. Do you recall
23 those questions?

24 A Yes.

25 Q What category of documents or transcripts or

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1 exhibits does that refer to in this case?

2 A The transcriptions.

3 Q Transcriptions of the audios or transcriptions of
4 actual documents?

5 A I'm not sure I understand what you're asking.

6 Q Let me ask you this: When you put Voice 1,
7 Voice 2, Voice 3, for example, what category of
8 documents did those voices apply to?

9 A Are you asking those were the A? Is that what
10 you're asking?

11 Q Whether it be A or B, what kind of documents were
12 you adding --

13 A Oh, in Word. Yes, they were Word documents.

14 Q When I say documents, I mean what kind of material
15 were you adding Voice 1, Voice 2, Voice 3 for? Were
16 they audio files or, for example --

17 A Yes, audio files.

18 Q -- Facebook messages?

19 A Well, let's see. I believe -- I mean, in all of
20 this, unless someone self-identifies on the --
21 sometimes on Facebook or a Telegram, someone may
22 self-identify, and that's possible.

23 Q When you say self-identify, what do you mean?

24 A They may identify who they are. They may use
25 their name. They may use their nickname.

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1 Q So if they used their nickname or self-identified
2 in the Facebook message, did you translate what that
3 name was?

4 A We don't usually translate nicknames. Sometimes
5 we'll -- I mean, we'll -- sometimes we'll take -- if
6 there's a name that's applied to someone in Spanish, we
7 will usually leave it in its source in its original
8 format. Sometimes we will put brackets next to it,
9 what the English translation of that nickname means.

10 Q So let me give you an example. If, for example,
11 there was a Spanish translation on Facebook that
12 included the name John, would you translate or
13 transcribe John onto the English side of the document?

14 A If it's in the source text, then John will be over
15 in the translation side too.

16 Q So if it was in the source text for any written
17 material in this case, did you include the names used
18 in the source text?

19 A Yes. Everything in the source text goes over into
20 the translation side.

21 Q Did the government add any names to any source
22 text to any written documents in this case?

23 MR. WALSH: Judge, I object to that.
24 Speculation.

25 THE COURT: Well, he can tell from the

Benningfield - Redirect

1 translation.

2 Go ahead. You may answer.

3 A I'm not aware of anyone altering these documents
4 or doing anything nefarious with the documents.

5 Q Now, with respect to the audio file -- so, for
6 example, the T-3 audio files, did the government ask
7 you to identify anyone's voice on those documents?

8 A No.

9 Q Did the government ask you to name anyone in those
10 documents?

11 A No.

12 Q If a government witness identified a voice in
13 those documents, did you receive those documents back?

14 A I may -- it's possible that when I put my initials
15 on some of the documents, some of the identifying
16 information of the speakers may have been on there.

17 Q And if identifying information for a speaker was
18 made, was that document provided back to you to review
19 by the government?

20 A Yes.

21 Q And what did you do when you received that
22 document back from the government with the identifying
23 names?

24 A So the document, before I put my initials on it, I
25 go back and review everything with the document, the

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1 audio. We review the source. We review the
2 translation.

3 And it's true. One of the attorneys brought up
4 today: Hey, you went through these kind of fast when
5 your initials weren't on there. I'm trying to respect
6 the jury and everyone's time. The reality is in my
7 office, each page is analyzed in accordance with the
8 source material, and the translation has been rendered.
9 I don't want to put my initials on any document until
10 I'm satisfied that the document accurately represents
11 what's on the source material so that the
12 English-speaking trier of fact receives the source
13 material in the English language.

14 Q And were you asked to rereview and re-initial
15 documents that had names added to remove, for example,
16 Voice 1 to identify the name of Voice 1? When that
17 occurred, were you asked to rereview those documents?

18 A Yes.

19 Q Go ahead.

20 A So my initials represent that I verified and I'm
21 responsible for the text. I don't take responsibility
22 for identification of the speakers. That's not me.
23 That's not my job. My job is to take the text, process
24 it, and put it into the English language. That I'm
25 responsible for.

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1 Q So were there occasions when you had already
2 translated text and identified different speakers by
3 Voice 1, Voice 2, Voice 3, and so forth?

4 A Yes.

5 Q And were there cases where that same text that you
6 had translated was sent back to you after the speakers
7 had been identified?

8 A Yes.

9 Q And what did you do when those materials were sent
10 back to you?

11 A Review.

12 Q And did you initial those materials when they were
13 sent back to you?

14 A I did.

15 Q Now, did you confirm, when you reviewed those
16 materials, the accuracy of the translations within
17 those materials?

18 A Yes.

19 Q Some of the documents that you discussed earlier
20 during your direct testimony did not have your
21 initials, and you reviewed those documents. Did you
22 observe any issues with respect to the translations in
23 those documents?

24 A I did not, and I recognize --

25 Q Now, the documents that did not contain your

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1 initials, did you produce those documents with your
2 initials in this case?

3 A I did produce them.

4 Q So you initialed all of the transcripts that you
5 produced in this case?

6 A Yes.

7 Q Now, with respect to specifically -- if I can have
8 you look at 19-4A for a moment.

9 THE COURT: 19-4A?

10 MR. MURPHY: Yes.

11 A Yes, I have it.

12 Q Okay. I believe you were asked a question by
13 counsel about whether or not those were your initials.
14 How many sets of initials, first of all, appear on that
15 document?

16 A There are two different sets of initials.

17 Q Which one of those sets of initials is yours?

18 A The ones furthest to the right.

19 Q Okay. You were asked a question about whether or
20 not those were your initials. Do you recall that?

21 A Yes.

22 Q Can you explain -- do those initials appear the
23 same as the other initials that you provided for
24 documents you reviewed in this case?

25 A No. They have a physical appearance.

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1 Q Why do these initials appear different?

2 A Because these initials were placed by my own hand.

3 Q How did you place the other initials?

4 A I used a digital signature.

5 Q Now --

6 A You can tell the handwriting is not that good.

7 Q Now, looking at Exhibit 18 dash -- you were asked
8 specifically about Exhibit 18-24A?

9 A Yes.

10 Q And you were asked specifically with respect to
11 this exhibit -- well, first of all, how many sets of
12 initials appear on 18-24A?

13 A There are two sets. Two distinct, separate
14 individuals have put their initials on here.

15 Q Now, you were asked specifically about -- I
16 believe the term used was "alterations" by the
17 government with respect to names on that exhibit.

18 A Right.

19 Q Consistent with questions that I asked earlier,
20 was 18-24A specifically provided to you after names
21 were added to the exhibit?

22 A Yes, it was.

23 Q And what did you do when you received it?

24 A I placed my digital initials, J.B., on there.

25 Q Does that reflect that you rereviewed to confirm

Benningfield - Redirect

1 that that exhibit accurately transcribed the text of
2 that exhibit?

3 A It does.

4 Q Now, you were asked some questions about the
5 assistance that Fernando provided you with respect to
6 this case.

7 A Yes.

8 Q I believe you testified earlier that your team
9 spent 1,200 hours on this case.

10 A We spent a little over 1,200 hours.

11 Q Is that something you could have done by yourself?

12 A Maybe I could have. I don't normally do
13 translation work by myself. I almost always, whether
14 it's for a commercial enterprise or for whoever it is
15 for -- translation in the professional world is
16 typically done in teams. It's not done by an
17 individual. There may be some occasions that it is,
18 but on many occasions, especially on larger -- projects
19 of larger magnitude, translators work in teams, not as
20 lone wolves.

21 Q Did Fernando do any work to assist you in this
22 case that you yourself did not ultimately check and
23 review?

24 A Absolutely not.

25 Q Who is responsible for finalizing ultimately the

Benningfield - Redirect

1 transcriptions made for each one of the exhibits we
2 discussed in this case?

3 A I am. I'm responsible for all of this work.

4 Q Does that include the audio files?

5 A It does.

6 Q Does that include the Facebook files?

7 A It includes all the work.

8 Q I have a couple of final questions here. With
9 respect to Exhibit 18-25A, you were asked some
10 questions about son. Did you listen to the audio?

11 A I did.

12 Q How many times did you listen to the audio
13 associated with that exhibit?

14 A I didn't take a count of that particular exhibit,
15 how many times I listened to the audio. I can tell you
16 with all of these audio files, they have received --
17 just on my end, they have received at least four or
18 five reviews, audio reviews and sound reviews. That
19 doesn't count what Fernando has done.

20 So I have no doubt in my mind -- and if you have a
21 recording and want to play it, I don't think anyone
22 would mishear it. You can hear son very clear.

23 MR. MURPHY: No further questions, Your
24 Honor.

25 THE COURT: All right. Thank you.

Benningfield - Redirect

1 Mr. Benningfield, thank you. You're excused.
2 Do not discuss your testimony outside of the courtroom
3 with any other witness.

4 THE WITNESS: Thank you, Your Honor. I
5 appreciate serving the court.

6 THE COURT: Thank you.

7 (The witness stands aside.)

8 MR. KRISCHER: May we approach?

9 THE COURT: Yes.

10 (Conference at the bench, as follows:)

11 THE COURT: What's up?

12 MR. KRISCHER: Given that none of his
13 exhibits were introduced --

14 (Reporter clarification.)

15 MR. KRISCHER: I'm sorry. Given that none of
16 the exhibits prepared in part by Mr. Benningfield have
17 been admitted, I would like him to be subject to
18 recall.

19 THE COURT: All right. If you would, let him
20 know he may be recalled.

21 He is local?

22 MR. MURPHY: Yes.

23 MR. KRISCHER: The Court already instructed
24 him not to discuss this.

25 THE COURT: All right.

1 MR. MURPHY: Just one note before we proceed.
2 The government's next witness will be Walter Amaya. He
3 is an individual involved directly with the 2017
4 charged murder. The government anticipates he will be
5 the lengthiest exam we have had thus far. I wanted to
6 inquire whether or not that's something the Court wants
7 to start now.

8 THE COURT: Let's start. How long do you
9 think you'll be with him?

10 MR. MURPHY: An hour and a half.

11 THE COURT: Okay. We'll go until 5:30,
12 quarter to six.

13 MR. MURPHY: All right.

14 MR. KRISCHER: Thank you, Judge.

15 THE COURT: Okay.

16 (Proceedings continued in open court, as follows:)

17 THE COURT: The government will call its next
18 witness.

19 MR. MURPHY: Yes, Your Honor. The government
20 calls Walter Amaya.

21 THE COURT: All right. Mr. Amaya will come
22 forward, please.

23 Mr. Amaya, if you are vaccinated, I would
24 like you to testify without your mask.

25 MR. MURPHY: I just wanted to confirm that

Amaya - Direct

1 Ms. Horvath has already been sworn in.

2 THE COURT: Yes. We put on the record
3 earlier that all of the interpreters remain under oath.

4 MR. MURPHY: Okay.

5 WALTER ARGUETA AMAYA, GOVERNMENT'S WITNESS, AFFIRMED

6 DIRECT EXAMINATION

7 BY MR. MURPHY:

8 Q Good afternoon, Walter. Can you please introduce
9 yourself to the Court and spell your name for the court
10 reporter?

11 A My name is Walter Antonio Argueta Amaya.

12 Q Can you spell Argueta Amaya for the court
13 reporter?

14 A A-R-G-U-E-T-A, and Amaya is A-M-A-Y-A.

15 Q How old are you?

16 A Twenty-four years old.

17 Q And where were you born?

18 A In El Salvador.

19 Q When did you come to the United States?

20 A 2013.

21 Q How old were you when you came to the United
22 States?

23 A Sixteen years.

24 Q And when you first came to the United States,
25 where did you go?

Amaya - Direct

1 A Maryland.

2 Q Why did you go to Maryland?

3 A Because my parents lived there.

4 Q How long did you live with your parents in
5 Maryland?

6 A About two years.

7 Q Where did you live after that?

8 A In Virginia.

9 Q Where in Virginia?

10 A Manassas.

11 Q How far did you go in school before you came to
12 the United States?

13 A Eleventh grade.

14 Q When you came to the United States, did you
15 continue in school here?

16 A No.

17 Q Did you work?

18 A Yes.

19 Q What kind of job did you have?

20 A Landscaping and restaurant work.

21 Q Walter, have you ever been in a gang?

22 A Yes.

23 Q Which gang?

24 A MS-13.

25 Q What's the full name of MS-13?

Amaya - Direct

- 1 A Mara Salvatrucha.
- 2 Q How old were you when you joined MS-13?
- 3 A I was about 8 or 9 years old.
- 4 Q Where did you live when you joined MS-13?
- 5 A In El Salvador.
- 6 Q Within MS-13, what clique were you a part of when
- 7 you left El Salvador?
- 8 A Guanacos Lil Cycos.
- 9 Q What is the nickname for that clique?
- 10 A GLCS.
- 11 Q What rank in MS-13 were you before you came to the
- 12 United States?
- 13 A *Observacion*.
- 14 Q What is your current rank in the clique?
- 15 A Homeboy.
- 16 Q Is the GLCS clique present in Virginia?
- 17 A Yes.
- 18 Q What areas of Virginia does the GLCS clique
- 19 control?
- 20 A Manassas, Falls Church, Fairfax, Alexandria, and
- 21 Woodbridge.
- 22 Q Is the GLCS clique present in other parts of the
- 23 United States?
- 24 A Yes.
- 25 Q Where else is the clique present in the United

Amaya - Direct

1 States?

2 A New Jersey, New York, and Florida.

3 Q Walter, generally speaking, when a person joins
4 the MS-13 gang, are they given a nickname?

5 A Yes.

6 Q What is your nickname?

7 A Belial.

8 Q Can you spell that for the court reporter?

9 A B-E-L-I-A-R.

10 Q Is it R or L?

11 A L.

12 Q Belial?

13 A Yes.

14 THE INTERPRETER: So it's B-E-L-I-A-L.

15 BY MR. MURPHY:

16 Q Have you had any other nicknames in the GLCS
17 clique?

18 A Yes.

19 Q What other nickname?

20 A Stricky or Pensamientos.

21 Q Can you spell the second one for the court
22 reporter?

23 A So it would be P-E-N-S-A-M-I-E-N-T-O-S, and the
24 other word would be N-E-G-R-O-S.

25 Q What does that mean?

Amaya - Direct

1 A Well, a person who only has dark thoughts.

2 Q Why did your nicknames change in the clique?

3 A Well, it changes every time you go up in rank.

4 Q Do MS-13 members typically know each other's real
5 names?

6 A No.

7 Q Why not?

8 A Because once we join the gang, the name they give
9 us, that would be our name, and that's how we would be
10 known from there on.

11 Q Walter, are you currently incarcerated?

12 A Yes.

13 Q Are you in prison for pleading guilty to
14 first-degree murder, gang participation, and abduction?

15 A Yes.

16 Q Did you plead guilty to those charges, Walter, in
17 2018?

18 A Yes.

19 Q Did you plead guilty to those charges in state
20 court in Albemarle County, Virginia?

21 A Yes.

22 Q Did you commit that murder by yourself, Walter?

23 A No.

24 Q Did you commit that murder with other MS-13 gang
25 members?

Amaya - Direct

1 A Yes.

2 Q What other MS-13 gang members did you commit that
3 murder with?

4 A Anticristo, Flaco, Little Boy, and Charlie.

5 Q How do you spell Flaco?

6 A F-L-A-C-O.

7 Q And how do you spell Anticristo?

8 A A-N-T-I-C-R-I-S-T-O.

9 Q Now, were all the individuals that you just
10 stated, were they all in GLCS?

11 A No, not all of them.

12 Q Who was not in GLCS of the individuals you just
13 stated?

14 A Charlie belonged to Normandy.

15 Q Is Normandy MS-13?

16 A Yes.

17 Q Did you know Charlie before you committed the
18 murder?

19 A No.

20 Q When did you first meet Charlie?

21 A The day of the murder.

22 Q Who authorized that murder?

23 A Fearless.

24 Q Who was --

25 MR. CONTE: I would like some foundation for

Amaya - Direct

1 that, Your Honor.

2 BY MR. MURPHY:

3 Q Were you involved in the murder, Walter?

4 A Yes.

5 Q Did the murder require authorization?

6 A Yes.

7 Q Did you speak directly to the individual who
8 authorized the murder?

9 A Yes.

10 Q Who was that individual?

11 A Fearless.

12 Q Who is Fearless?

13 A He is the first word of the Guanacos Lil Cycos.

14 Q Where did this murder occur, Walter?

15 A Charlottesville, Virginia.

16 Q When did the murder occur?

17 A July 3, 1917 [sic].

18 Q Is it 2017?

19 A 2017.

20 Q Okay. And at the time of the murder, where were
21 you living?

22 A In Manassas.

23 Q Have you been sentenced for that murder, Walter?

24 A Yes.

25 Q What sentence did you receive?

Amaya - Direct

1 A Thirty years.

2 Q And as a result of your guilty plea, did you enter
3 into a Plea Agreement with the Albemarle County
4 Commonwealth's Attorney's Office?

5 A Yes.

6 Q Walter, with the assistance of the court security
7 officer, I'm going to have you look at what's been
8 marked as Government Exhibit 58-4.

9 Can you take a look at that document? Are you
10 familiar with that document?

11 A Yes.

12 Q Does your signature appear on the last page of
13 that document?

14 A Yes.

15 Q Is that the Plea Agreement you signed in Albemarle
16 County?

17 A Yes.

18 MR. MURPHY: Your Honor, I ask that
19 Government's Exhibit 58-4 be admitted into evidence.

20 THE COURT: Any objection?

21 MR. WALSH: No objection, Judge.

22 THE COURT: Without objection, Government
23 Exhibit 58-4 is admitted.

24 BY MR. MURPHY:

25 Q Walter, you can close it.

Amaya - Direct

1 Walter, when you pled guilty, did you agree to
2 cooperate in related proceedings here in Virginia?

3 A Yes.

4 Q What does the government expect you to do with
5 respect to your cooperation in this case?

6 A To tell them the truth about what happened.

7 Q Okay. Walter, have you ever testified at trial
8 before?

9 A No.

10 Q Do you hope that your sentence will be reduced
11 down from 30 years?

12 A Yes.

13 Q Has anyone made you any promises, Walter, other
14 than the terms that were written into your Plea
15 Agreement that you just reviewed?

16 A No.

17 Q If you cooperate with the United States and
18 testify truthfully, Walter, what do you hope will
19 happen?

20 A Well, to obtain a reduction in my sentence.

21 Q What do you understand would happen if you were to
22 testify falsely?

23 A Well, they could add new charges, and I would not
24 get my time reduced.

25 Q Has anyone promised you or made any guarantees to

Amaya - Direct

1 you that you would receive a reduction in your sentence
2 by testifying before the jury?

3 A No.

4 Q Walter, who will actually determine what your
5 sentence will be?

6 A The judge.

7 Q The judge in Albemarle County?

8 A Yes.

9 Q Do you understand that the judge in your case in
10 Albemarle County will ultimately determine whether or
11 not any reduction in your sentence is appropriate?

12 A Yes.

13 Q Walter, can you tell the jury a little bit about
14 why you joined the MS-13 gang?

15 A Well, I started when I was about eight or nine
16 years old because I could see everybody who was part of
17 the gang, and I wanted to be one of them.

18 Q Before you joined MS-13, did you know about any
19 criminal activity that the gang was involved in?

20 A Yes.

21 Q What did you know about crimes that the MS-13 gang
22 committed before you joined?

23 A Extortion, they stole things. They murdered, and
24 they also sold drugs.

25 Q How did you know that the MS-13 gang committed

Amaya - Direct

1 those crimes before you joined?

2 A Well, because I did hang out with them, and they
3 are from the area where I am from.

4 Q Walter, can you tell the jury a little bit about
5 what are the ranks from top to bottom of the MS-13
6 clique?

7 A The first is a *paro*. Second is *observacion*. Then
8 homeboy and then first word and second word.

9 Q Walter, is there anything that comes in between
10 *observacion* and a homeboy?

11 A *Chequeo*.

12 Q What is a *paro*?

13 A Well, it is the first step for those who want to
14 be part of the gang. And what they do is they look and
15 survey the area, and they also sell drugs.

16 Q What about an *observacion*? What do they do?

17 A Well, it's almost the same thing as the previous
18 one. But in this case, the homies, they trust them
19 more.

20 Q What about a *chequeo*? What is a *chequeo*?

21 A Well, it's when you committed the first murder,
22 maybe a couple.

23 MR. OATES: Objection, Your Honor.

24 THE COURT: I'm sorry. What's the question?

25 MR. OATES: May we approach, Your Honor?

Amaya - Direct

1 THE COURT: Yes.

2 (Conference at the bench, as follows:)

3 THE COURT: All right. I'm sorry. What was
4 the question about?

5 MR. OATES: What does a *chequeo* do, and he
6 said you have to commit, I think, at least one murder
7 in order to be up to a *chequeo*.

8 MR. MURPHY: He has never told that to me
9 before.

10 THE COURT: I know you weren't expecting
11 that.

12 MR. MURPHY: If it's okay, I would like to
13 just correct him as to different activities that the
14 *chequeo* might do that doesn't include murder and have
15 him respond. If I can just lead him with respect to
16 the specific activities that the *chequeo* participates
17 in so we don't get the murder.

18 MR. OATES: I would like to ask the Court to
19 strike that for the jury.

20 THE COURT: All right. I'll strike that last
21 answer, and I want you to rephrase the question for
22 him. All right.

23 MR. MURPHY: Yes. I will just ask him
24 specific activity a *chequeo* is involved in in the
25 clique.

Amaya - Direct

1 THE COURT: Without asking him what's
2 required to become a *chequeo*.

3 MR. MURPHY: Correct.

4 THE COURT: All right.

5 MR. OATES: Okay. Thank you.

6 THE COURT: All right.

7 (Proceedings continued in open court, as follows:)

8 THE COURT: The Court is going to strike the
9 witness' last answer.

10 Mr. Murphy.

11 BY MR. MURPHY:

12 Q Walter, does a *chequeo* -- is he in charge of the
13 *paros* and *observaciones* in the clique?

14 A Yes. They supervise them, and they try to make
15 sure that they are selling the drugs or follow their
16 instructions.

17 Q When you say instructions, what are you referring
18 to?

19 A Well, they have to survey the area, and they have
20 to let know the *chequeos* if there is something
21 different in the area or whether there is something
22 happened in the area.

23 Q Walter, where do the *paros* get the drugs that they
24 sell?

25 MR. OATES: Objection.

Amaya - Direct

1 THE COURT: Why don't you lay a foundation.

2 BY MR. MURPHY:

3 Q Who in the clique sells drug, Walter?

4 THE INTERPRETER: Excuse me?

5 BY MR. MURPHY:

6 Q Who in the clique sells drugs?

7 A Basically, everybody.

8 MR. OATES: Objection, Your Honor. I'm
9 sorry. May we approach again?

10 THE COURT: I'm going to overrule the
11 objection.

12 Go ahead.

13 MR. OATES: Your Honor, it's --

14 THE COURT: Go ahead. Why don't you ask the
15 question.

16 BY MR. MURPHY:

17 Q Who in the clique sells drugs?

18 A *Paros, observaciones, and the chequeos.*

19 Q Is there someone in the clique who supplies drugs
20 to *paros, observaciones, and chequeos* that they sell?

21 MR. OATES: Can we have some foundation, Your
22 Honor? Your Honor, I'm sorry.

23 THE COURT: Let me see counsel.

24 (Conference at the bench, as follows:)

25 MR. OATES: Your Honor, my objection is to

Amaya - Direct

1 foundation and speculation and that he's essentially
2 giving opinion testimony as to the function of the
3 gang. My understanding was that Mr. Amaya was a fact
4 witness to describe the murder that happened in 2017,
5 but he's sort of rehashing all the stuff that we
6 actually let them do with Mr. Torres and Sergeant Saa
7 already, you know, gotten into -- if they are just
8 going to rehash the entire what's the gang and what's
9 the function --

10 THE COURT: Well, he is a homeboy who had a
11 position of authority. He, obviously, can factually
12 say how the clique was run and who was doing what. I
13 see this as factual, not opinion.

14 MR. MURPHY: Correct.

15 MR. CONTE: Still no foundation.

16 THE COURT: If you want to lay a foundation,
17 that's fine, asking him how he knows and was he
18 familiar with the source of the drugs. A foundation is
19 pretty easy to lay. I'm not sure laying a foundation
20 helps anybody. If you want a foundation, I think you
21 can give a pretty good foundation.

22 MR. MURPHY: Okay.

23 THE COURT: All right.

24 (Proceedings continued in open court, as follows:)

25

Amaya - Direct

1 BY MR. MURPHY:

2 Q Walter, did the GLCS clique deal drugs when you
3 were in GLCS?

4 A Yes.

5 Q Did you deal drugs on behalf of GLCS?

6 A I did not sell them, but I obtained them and gave
7 them to the *paros* and *observaciones* so that they would
8 sell them.

9 Q What kind of drugs did you obtain for *paros* and
10 *observaciones* and *chequeos* in the clique to sell?

11 MR. OATES: Objection. That wasn't his
12 answer. He said *paros* and *observaciones*.

13 BY MR. MURPHY:

14 Q *Paros* and *observaciones* to sell?

15 A Marijuana.

16 Q Okay. Who had the connection in the clique to
17 obtain marijuana for individuals in the clique to sell?

18 A Fearless, Fire, and then after he introduced us to
19 the persons who were getting the drugs, then I would be
20 the one obtaining the drugs.

21 Q Now, are you familiar with how the money was
22 raised or obtained to purchase the drugs?

23 A Yes.

24 Q How was the money obtained to purchase the drugs
25 for the clique?

Amaya - Direct

1 A So every *paro, chequeo, observacion*, they -- each
2 one of them had to contribute with some money once a
3 month to the clique.

4 Q Okay. Walter, what does it mean -- are you
5 familiar with the term "patrol"?

6 A Yes.

7 Q What does it mean to patrol in MS-13?

8 A Well, we have to survey the area that our clique
9 controls so that *paros, observaciones*, and *chequeos* are
10 the ones who control the area. If anything happens in
11 the area, they have to tell the homeboys, and then
12 homeboys will make the decisions.

13 Q What is a homeboy?

14 A A homeboy is a member of the gang who already
15 classifies as such because of the murders he committed
16 or whatever was requested him to do.

17 Q What is the initiation process for a homeboy in
18 the gang?

19 A Well, first of all, they have to commit the
20 murders that each clique wants them to do. Then once
21 they committed the murder, the first word decides
22 whether the person is ready to be jumped into the gang.

23 Q Can you tell the jury what you mean by jumped in?

24 A Well, it's sort of a ceremony where four homeboys
25 and three of them are counting -- oh, one is counting.

Amaya - Direct

1 Excuse me, correction. One is counting, and the other
2 three are beating during 13 seconds that person.

3 Q Is that how you were received as a homeboy in
4 GLCS?

5 A Yes.

6 Q Generally speaking, who are the leaders of a
7 clique?

8 A Fearless and Fire are the leaders of Guanacos Lil
9 Cycos Salvatrucha.

10 Q Did they have a specific rank in the clique,
11 Fearless and Fire?

12 A Fearless is first word, and Fire is the second
13 word.

14 Q Are you familiar with the term "green light"?

15 A A green light is applied to one member of the gang
16 who for some reason did not obey the rules, did not
17 want to participate, doesn't want to stay inside the
18 clique, or made mistakes. So they decide to murder
19 him.

20 Q Can the green light be applied to people who are
21 not in the clique?

22 A Yes.

23 Q Walter, where are the main high-level leaders of
24 MS-13 located?

25 A In El Salvador.

Amaya - Direct

1 Q Are you familiar with the term "East Coast
2 Program"?

3 A Yes.

4 Q Can you tell the jury what the East Coast Program
5 is?

6 A Well, it has all the cliques that are in the area,
7 like Maryland, Virginia, all the states that are on the
8 eastern part of the United States.

9 Q Was GLCS in the East Coast Program?

10 A No.

11 Q Why not?

12 A Well, because Fearless said that we do not have to
13 be followers and that since Guanacos Lil Cycos started
14 in El Salvador, it was an independent clique.

15 Q Do MS-13 gang members sometimes speak in code
16 words?

17 A Yes.

18 Q And are you familiar with the code words used by
19 MS-13 gang members?

20 A Yes.

21 Q Why do MS-13 gang members sometimes use code
22 words?

23 A So that other persons who are not a member or not
24 members of a gang cannot understand what we are talking
25 about.

Amaya - Direct

1 Q And what are some of the code words that MS-13
2 gang members use to refer to bullets?

3 A The word is *frijoles*, which means beans.

4 Q What are some of the code words that MS-13 gang
5 members use to refer to cocaine?

6 A *Nieve*, *polvo*.

7 (Reporter clarification.)

8 A *Nieve*, which means snow; *polvo*, which means
9 powder.

10 Q Can you spell those for her?

11 THE INTERPRETER: *Nieve*, N-I-E-V-E, and *polvo*
12 is P-O-L-V-O.

13 BY MR. MURPHY:

14 Q Walter, do you know what a zone is?

15 THE INTERPRETER: Excuse me?

16 BY MR. MURPHY:

17 Q In reference to MS-13, do you know what a zone is?

18 A Yes.

19 Q What is a zone?

20 A It's the area that belongs to each clique.

21 Q You earlier testified that GLCS had its own
22 specific zones?

23 A Yes.

24 Q And what were those zones?

25 A Manassas, Falls Church, Fairfax, Alexandria, and

Amaya - Direct

1 Woodbridge.

2 Q What would happen if a clique were to operate
3 outside of this given zone?

4 A Well, there is always a conflict with other
5 cliques. So whenever we leave our area, there are
6 other cliques controlling.

7 Q Did GLCS have clique meetings?

8 A Yes.

9 Q How often did GLCS have clique meetings?

10 A Normally, it is once a month. But if there is a
11 conflict, then we have to do it more often, maybe once
12 a week or every two weeks.

13 Q I believe that you earlier testified that GLCS
14 required its members to pay dues.

15 A Yes.

16 Q Can you explain to the jury what you mean by pay
17 dues?

18 A Well, it says that every member of the clique has
19 to pay once a month a certain amount of money, and that
20 money would be used either to buy drugs, to buy
21 weapons, or to send the money to El Salvador.

22 Q Who was responsible for collecting the money in
23 GLCS?

24 A I was.

25 Q At the time of the murder you pled guilty to in

Amaya - Direct

1 this case and at the time of your arrest -- before that
2 time, were you using a phone to communicate with other
3 members or associates of GLCS?

4 A Yes.

5 Q With the assistance of the court security officer,
6 I'd like for you to look at what's been marked as
7 Government Exhibit 37-9B.

8 Walter, do you recognize the photo in Government
9 Exhibit 37-9B?

10 A Yes.

11 Q Where did this photo come from?

12 A From my telephone.

13 Q What is depicted in this photograph?

14 A Those are notes of members of the clique, of money
15 they owed to the clique.

16 Q Does the photograph in Government's Exhibit 37-9B
17 fairly and accurately depict a photograph of
18 individuals in the clique and money owed to the clique?

19 A Yes.

20 MR. OATES: Objection, Judge, foundation.

21 THE COURT: Overruled.

22 MR. MURPHY: Your Honor, I would ask that
23 Government's Exhibit 37-9B be admitted into evidence.

24 THE COURT: Any objection?

25 MR. OATES: Yes, objection to foundation and

Amaya - Direct

1 hearsay.

2 THE COURT: All right. Over objection,
3 Government Exhibit 37-9B is admitted.

4 MR. MURPHY: Your Honor, I would request that
5 that exhibit be published.

6 THE COURT: Yes.

7 BY MR. MURPHY:

8 Q Walter, looking at Government's Exhibit 37-9B, can
9 you read for the jury the names that are listed on that
10 exhibit?

11 A The first one says Fear, which is for Fearless.
12 The second one is Refi, which is for Fire, and the last
13 one or third one is Gova, which means Vago.

14 Q Are those actual gang names as listed on the
15 notebook?

16 A Well, those are actually codes so that the real
17 nicknames would not show up.

18 Q Did you send that photo to anyone?

19 A Yes.

20 Q Who did you send that photo to?

21 A I sent it to Fearless so that he would know who
22 owed money to the clique.

23 Q What are the numbers that are listed beside the
24 names on that exhibit?

25 A Fearless, \$130; Fire, \$100; Little Vago, \$100.

Amaya - Direct

1 Q Is that money they paid to the clique or owed to
2 the clique?

3 A That's money they owed to the clique.

4 Q What would you do with the money that you
5 collected for the clique?

6 A I would buy drugs and give it to the *paros*, so
7 they would sell it and obtain more money for the
8 clique. And some other times, when the first word
9 wanted the money to go to leadership to El Salvador,
10 then we would send it to El Salvador. Sometimes they
11 decided we needed more weapons, and it would be used to
12 buy more weapons.

13 Q I want to talk about the money that was sent to
14 El Salvador by the clique. Did you send money on
15 behalf of the clique to El Salvador?

16 A Yes.

17 Q How would you send the money to El Salvador?

18 A Through Western Union.

19 Q With the assistance of the court security officer,
20 I'd like for you to look, Walter, at what's been marked
21 as Government Exhibit 37-9C. Do you recognize that
22 photograph, Walter?

23 A Yes.

24 Q Where did that photograph come from?

25 A From my telephone.

Amaya - Direct

1 Q Who took that photograph, Walter?

2 A I took it.

3 Q What did you do with the photograph after you took
4 it?

5 A I sent it to the person in El Salvador so that
6 person could obtain the code and get the money.

7 Q What is in that photograph?

8 A It is a receipt from Western Union.

9 Q Does the photograph in Government Exhibit 37-9C
10 fairly and accurately depict a photograph of a Western
11 Union receipt that you took and sent?

12 A Yes.

13 MR. MURPHY: Your Honor, at this time, I'd
14 ask that Government's Exhibit 37-9C be admitted into
15 evidence.

16 THE COURT: Any objection?

17 MR. OATES: Objection, hearsay.

18 THE COURT: Over objection, Government
19 Exhibit 37-9C is admitted.

20 MR. MURPHY: Your Honor, I request to
21 publish.

22 THE COURT: Yes.

23 BY MR. MURPHY:

24 Q Walter, looking at Exhibit 37-9C, can you tell the
25 jury who the sender of the funds is on that receipt?

Amaya - Direct

1 A Kelly Rivas.

2 Q Do you know who Kelly Rivas is?

3 A She was my girlfriend when I was outside.

4 Q Do you know if she had any affiliation with MS-13?

5 A Yes.

6 Q What affiliation did she have with MS-13?

7 A She was the first word of the Hollywood Locos.

8 Q Looking at the receipt in Government

9 Exhibit 37-9C, who was the recipient of the funds?

10 A Yeimi Elizabeth Merlos. That was the person in

11 El Salvador.

12 Q So the individual who received those funds lived

13 in El Salvador?

14 A Yes.

15 Q What is the date that those funds were sent?

16 A May 20, 2017.

17 Q Who asked you to have this money sent to that

18 individual?

19 A Fearless.

20 Q Who was responsible for buying the guns in the

21 clique?

22 A Fearless and Fire, they would decide, and they had

23 the contacts to purchase the guns.

24 Q Who kept the guns?

25 A Fearless and Fire would keep them most of the

Amaya - Direct

1 time, but we would rotate the possession of the guns
2 among ourselves.

3 Q Does MS-13 have rules, Walter?

4 A Yes.

5 Q Do you know those rules?

6 A Yes.

7 Q How did you learn MS-13's rules?

8 A I learned about them when I started being a member
9 of the gang.

10 Q Does GLCS have rules?

11 A Yes.

12 Q Do you know GLCS's rules?

13 A Yes.

14 Q How did you learn GLCS's rules?

15 A When I became a member of that clique, then the
16 homies started teaching me the rules of the clique.

17 Q What is the most important rule in GLCS?

18 A La Mara first and always La Mara.

19 THE COURT: Thank you, Mr. Murphy.

20 Ladies and gentlemen, we're going to adjourn
21 for the day. We will reconvene tomorrow again at 9:30.
22 Again, please do not discuss anything about this case
23 outside of the courtroom, and you're excused until
24 tomorrow morning.

25 (The jury exits at 5:48 p.m.)

Amaya - Direct

1 THE COURT: Mr. Amaya, you're excused until
2 tomorrow morning. Do not discuss your testimony with
3 anyone during the evening recess.

4 (The witness stands aside.)

5 THE COURT: All right. I've learned that we
6 may have some issues in terms of coverage for the
7 entire day tomorrow with interpreters. We're trying to
8 focus on that now. So I think we'll be good at least
9 through a large portion of the day.

10 (The Court confers with the clerk.)

11 THE COURT: All right. Well, we'll proceed.
12 At 9:00 I'll see counsel.

13 All right. Stand in recess.

14 -----
Time: 5:49 p.m.

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I certify that the foregoing is a true and
accurate transcription of my stenographic notes.

/s/
Rhonda F. Montgomery, CCR, RPR